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Turning children into sex experts

JACQUELINE KASUN

THE notion having long prevailed that anyone questioning the value of sex education must be some sort of unenlightened crank, it is small wonder that the topic receives so little scrutiny. There are, nevertheless, elements in the emerging sex-education movement that must raise questions in even the most accepting hearts.

It may come as a surprise to other parents, as it did to me, that the contemporary sex-education movement does not focus primarily on the biological aspects of sex. The movement's leaders and disciples are not biologists but mainly psychologists, sociologists, and "health educators." Their principal concerns are less with the physiology of procreation and inheritance than with "sexuality," a very broad field of interest running the gamut from personal hygiene to the population question, but largely concerned with attitudes and "values clarification" rather than with biological facts.

Thus, though the new sex programs are rather thin on biological facts, they do not skimp on information about the various types of sexual activity. From instruction in "French" kissing to the details of female masturbation, the information is explicit and complete. The curriculum guide for the seventh and eighth grades in my city

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of Arcata, in Humboldt County, California, specifies that "the student will develop an understanding of masturbation," will view films on masturbation, will "learn the four philosophies of masturbation—traditional, religious, neutral, radical—by participating in a class debate," and will demonstrate his understanding by a "pre-test" and a "post-test" on the subject. A Planned Parenthood pamphlet, *The Perils of Puberty,* recommended by my county health department for local high school use, says: "Sex is too important to glop up with sentiment. If you feel sexy, for heaven's sake admit it to yourself. If the feeling and the tension bother you, you can masturbate. Masturbation cannot hurt you and it will make you feel more relaxed."

Homosexuality receives similarly thorough and sympathetic treatment in the new sex curriculum. In an article on "Sex in Adolescence: Its Meaning and Its Future," reprinted from *Adolescence* and distributed to high school teachers by Planned Parenthood, author James W. Maddock stresses that "we must finish the contemporary sex 'revolution' . . . our society must strive to sanction and support various forms of intimacy between members of the same sex." The sex-curriculum guide for elementary schools in my city specifies that children will "develop an understanding of homosexuality," "learn the vocabulary and social fads" relating to it, "study the theories concerning it," view films and engage in role playing about homosexuality, and take tests on it. The teaching stresses the sociological, rather than biological, nature of sex "roles." A suggested class outline distributed to teachers by Planned Parenthood emphasizes the "cultural basis of sex: 'masculine' vs. 'feminine' behavior; how we *learn* society's defined sex roles."

Another noteworthy feature of the contemporary sex-education movement is its emphasis on separate individual sexual gratification, rather than on sex as an interpersonal act. Thus, authors John Burt and Linda Meeks, in their *Education for Sexuality* (W. B. Saunders, 1975), a text for teachers of sex, describe coitus briefly but dwell for pages on the "four phases of sexual response" of the separate individuals concerned. They liken sexual response to an individual's "jumping off a diving board" and suggest that junior high school teachers discuss in depth with the class "the person's [singular] feelings about sexual excitement and orgasm."

The instruction makes it clear that the source from which the person obtains these individual pleasures of sex—whether from married intercourse or from masturbation or from homosexual relations—is entirely a matter of personal preference. In a "sexuality"

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course for teachers, given recently by my county health department, I heard the instructor deplore the fact that so many otherwise well-informed girls and women "have never been told anything about masturbation" and "don't even know they have a clitoris."

An early start

To most persons first encountering the new "sexuality" instruction, probably its most striking feature is its precocious intensity. The Burt and Meeks kindergarten-through-twelfth-grade model curriculum begins with a mixed-group "bathroom tour" in the first grade, accompanied by the naming and explanation of the male and female genital parts. Children receive detailed instruction in male and female genital anatomy and human sexual intercourse in the fourth grade. Moreover, proponents of the new sex programs want them to be compulsory for all students from kindergarten through at least two years of high school.

Here in California state law still permits parents to keep their children out of sex classes by written request. Parents report, however, that they receive so little information about the times and nature of the instruction that they are unable to send in their requests at the right times. And whereas for most school activities requiring parental permission a signed permission slip is necessary, the law allows a child to receive sex instruction unless his parent specifically requests that he *not* receive it.

Planned Parenthood instructions urge sex teachers to maintain an "open atmosphere" in which students can "share" their feelings and "open up and talk freely about their concerns." One Humboldt County curriculum guide urges students to "thoroughly discuss their problems" in their sex classes and to engage in "total sharing" in such discussions. Teachers can accomplish these objectives and can "change teenagers' intentions" by "becoming the best friends in the adult world that many of these students have ever had," according to the Humboldt County *Family Planning News,* edited by Planned Parenthood officials and distributed by the county health department to sex teachers.

The "intention-changing" techniques are worthy of note. Rather than having the class register opinions by merely raising hands or casting ballots, the teachers of a sexuality class I attended would ask students holding various views to move to designated places in the room. Holders of minority opinions would thus find themselves conspicuously isolated in space.

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With subject matter varying between the coyly sentimental and the grossly explicit, most class activities consist of seemingly innocuous, but clearly directional, mental-conditioning "exercises." Thus the Burt and Meeks teaching unit on homosexuality begins by having students discuss the changes which have occurred in male and female roles. Students then decide whether these changes have been beneficial for society. After this, they "role play" the parts of effeminate men and masculine women, and then they "collect magazine . . . articles . . . and pictures of famous persons who possess attributes of the opposite sex." The unit culminates with a vocabulary list of such words as *fellatio* and *cunnilingus*. Needless to say, the thrust of the conditioning process in this instance is obvious. A similar progression can be observed in all elements of the "sexuality" teaching.

By the time children are in the seventh grade, they will have been taught—and will begin to review—ovulation, intercourse, fertilization, anatomy (including ovaries, Fallopian tubes, uterus, vagina, hymen, labia, clitoris, scrotum, penis, testes, prostate, Cowper's glands), erection, ejaculation, orgasm, genetics, embryonic development, the several stages of birth, breast-feeding and bottle-feeding, and birth control. The curriculum in my city provides for seventh- and eighth-grade children to spend one-fifth of the school day for four weeks each year in "sexuality" instruction. During this time they are to review the above subjects and also take up new material on contraception, venereal disease, the "effects of overpopulation," the "need for mature and responsible decisions regarding population stabilization," homosexuality, masturbation, the "intelligent choice of a sexual life style," genetics, and abortion. They receive information about the legality and safety of abortion and the "services available" to them (i.e., the availability of abortion through the county health department or Planned Parenthood to any girl without her parents' consent or knowledge).

The teaching methods are as intense as the subject matter. Burt and Meeks recommend that teachers have students in every grade "take notes on the discussion and carefully organize them into separate units to compile a notebook on human sexuality." The authors say teachers should "encourage outside reading and the inclusion of additional materials in the notebook," and should have students "do some research and report to the class on the differences between human sexuality and the sexuality of lower animals." The National Sex Forum distributes for dissemination to school children pages of details regarding the male and female genital response

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during sex. The curriculum guide drawn up for schools in Ferndale, California, suggests that high school students work as boy-girl pairs on "physiology definition sheets" in which they define "foreplay," "erection," "ejaculation," and similar terms. Whether or not students are satisfied with their "size of sex organs" is suggested as a topic of class discussion in this curriculum.

The teacher of a "sexuality" class I attended distributed instructions for "Group Drawing of Female and Male Reproductive Anatomy," in which high school students are to "break up into groups of four to six persons, with men and women in each group." Each group then makes a drawing of the female and male reproductive organs and genitals, including the penis, scrotum, testes, vagina, clitoris, cervix, labia, and other parts. When the groups have finished, the teacher instructs them to check their drawings against accurate ones which she projects on the wall to "correct them" and to "talk about inaccuracies." The instructions for this exercise state that its purpose is "to provide a relaxed 'non-academic' means of reviewing the basic sexual physiology," to "provide a setting in which ignorance about physiology may be revealed without shame," and to "provide an opportunity to work as a group on a task." This activity has been included in the curriculum proposed for one city in my county. The guide suggests that though students may be permitted to work on this "exercise" as individuals, "the group experience . . . can help in . . . building . . . trust and sharing." In conclusion, the guide instructs the teacher to have students "discuss how they felt about 'drawing sex organs.' "

This enthusiastic pursuit of "self-awareness" in an "open atmosphere" extends to all aspects of sex education, including the programs for the mentally retarded. In their *Sex Education for the Developmentally Disabled* (Baltimore: University Park Press, 1973), Henry L. Fischer, Marilyn J. Krajicek, and William A. Borthick present explicit drawings of men and women masturbating and tell the teacher to elicit discussion by using four-letter words. The authors admit that parents may have "an underlying fear . . . that such talk about sex will create uncontrollable overstimulation." They nevertheless insist that parents and teachers should seize opportunities to discuss sex with retarded children, since the children know about it already or will find it out elsewhere. The fact that in either event the instruction is unnecessary raises a logical difficulty for all types of sex instruction, which its promoters counter by hinting darkly that all other purveyors of sex information are peddling mere "obscenities," in the words of Fischer and his colleagues.

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Some costs

In evaluating modern "education for sexuality," one natural question is: Is it worth it? In the spring of 1978 Carter Administration representatives testified before the House Select Committee on Population and suggested an additional $142 million be spent on the Federal government's teenage sex-education and birth-control program. Nor is this all. Numerous agencies within the Department of Health, Education, and Welfare channel millions of dollars into sex-education programs. Every hour, every day spent on sex education is time not spent on other school subjects. What returns can we expect from this huge investment? Though the increasing wealth of our society permits us to lavish on students more movies, books, pamphlets, wall-size anatomical drawings in full color, and other "instructional aids" than ever before, the basic educational resource—students' time—has not increased. Children who are absorbed in "sexuality" instruction are not learning arithmetic, spelling, grammar, history, or music. Though some school administrators insist that reading and spelling can be "integrated" into subjects such as "sexuality," the evidence on this score is not encouraging: There were seven misspelled words on one page of the sex-curriculum guide drawn up for teachers in my city.

Still, large benefits can justify a costly program. Perhaps intensive sex education will reduce venereal disease or births to unwed mothers. There is, however, no evidence of any such results. In a recent pamphlet, "What Parents Should Know About Sex Education in the Schools," the National Education Association admits that "While many feel that sex-education programs are necessary to halt the spread of venereal disease and the rise in the birth rate of illegitimate children, there is as yet only meager evidence that such programs reduce the incidence of these phenomena." In her study, *Illegitimacy* (University of California Press, 1975), Shirley Foster Hartley noted that in Sweden—where sex education became compulsory in 1956—the illegitimacy rate (the number of illegitimate births per thousand females of child-bearing age), which had been declining, subsequently rose for every age group except the older group, which did not receive the special sex education. Swedish births out of wedlock now amount to 31 percent of all births, the highest proportion in Europe, and two-and-a-half times as high as in the United States.

Proponents of sex education are aware of these facts. They accordingly deny that sex education should be expected to reduce illegitimacy or venereal disease (though they often cite such pheno-

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mena as "proof" of the need for sex education). They claim instead that its purposes are loftily intangible: ". . . to indicate the immense possibilities for human fulfillment that human sexuality offers," according to Dr. Mary Calderone, quoted in the Humboldt County *Family Planning News* of Fall 1977. Thus armed with inspirational purpose and millions of Health, Education, and Welfare Department dollars, the supporters of sex education promote it with missionary zeal. The superintendent of schools in my city rapturously described how the sex program would "dispel ignorance." In a long, suggested "Speech to Introduce Sex Education to the Community," authors Burt and Meeks promise that sex education is "education for love" which "will enable the individual to evaluate and effectively handle the consequences of his sexual behavior." Perhaps the summit of foggy aspirations is reached in two Humboldt County curriculum guides which promise that sex education will "develop a spiral of learning experiences to establish sexuality as an entity within healthy interpersonal relationships"—suggesting that, whatever else it may do, sex education will not advance the cause of literacy.

However, just in case the public is not as enthusiastic as the sex-education promoters, there are instructions for ramming the programs through. "Pack the board room with your supporters," advises Planned Parenthood of Alameda-San Francisco in its pamphlet *Creating a Climate of Support for Sex Education,* and ". . . avoid a public encounter . . . with the opposition."

Rugged individualism

The ethics behind "sexuality" education seem simple: "Stress what is right for the individual," advises the curriculum guide for seventh and eighth grades in my city. In making an "Intelligent Choice of a Sexual Life Style," the seventh-grader in my city is advised to set for himself a purely "personal standard of sexual behavior." No religious views, no community moral standards are to deflect him from his overriding purposes of self-discovery, self-assertion, and self-gratification. Carrying out these themes are a host of books targeted at junior high and high school students. In *Values, Rights, and the New Morality* (Prentice Hall, 1977), Jack L. Nelson advises high school students that much of previous history has consisted of sexual inhibitions imposed by the Catholic Church and similarly repressive institutions. He urges them to make up their own minds—under the guidance of their sex teachers, of course—

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about sexual morality, pornography, sex education itself, abortion, and euthanasia.

Despite the billing as "education for love," love itself is thoroughly debunked in the new programs. Sex is simply something with which one feels "comfortable," in the new view. A "sexuality" teacher whose class I attended guided her students through a lengthy list of "reasons why young people have sex" ("they want to prove their masculinity or femininity," "everybody else is doing it," etc.) without once mentioning love or marriage. "Romantic love," as portrayed in *Romeo and Juliet*, is an especially dangerous illusion, according to the new sex cult. It offers instead "rational love," which, according to University of Washington psychologist Nathaniel Wagner in his film *Human Sexuality*, can surmount the romantic impulse by envisioning the beloved sitting on the toilet passing wind while nose-picking and scratching.

Though rejecting traditional moral values, the new teaching is far from value-free. The new ethic, embraced and taught with all the fervor of the New England preaching tradition, is "responsible sex" —i.e., sex without parenthood, except under rigidly circumscribed conditions and in extremely limited numbers. Indeed, according to the Humboldt County *Family Planning News*, which is distributed to teachers, it is good to realize that one may not be "parent material" and to forego parenthood entirely. If people insist on having children, the *News* advises that there are "practical advantages to the one-child family," including "marital fulfillment," "lessened pressures from population growth," and "freedom to organize family activities without conflicts among children."

One school curriculum guide in my county carries out these themes by asking children to decide whether they are "parent material" by discussing "the problems that would be eliminated if I were the only child" and by lengthy discussions of family "conflicts" and "sibling rivalry." The guide offers a list of "reasons for having children," including the "desire to prove your femininity or masculinity (I *can* do it!)," "to make up for your own unhappy childhood," the "desire to be punished for having sexual relations," "to get back at your parents," and other motives suggesting that persons who want children must, at the least, be socially inadequate, and, more probably, psychologically deranged.

The literature stresses how difficult it is to raise children and how unattractive they are: "Babies are *not* sweet little things. They wet and dirty themselves, they get sick, they're very expensive to take care of," warns one Planned Parenthood pamphlet distributed for

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student use. One local curriculum guide warns that "it is estimated that it takes $70,000 to $100,000 (not including mother's loss of income) to raise a child these days," that "babies need attention and care 24 hours a day," and that they often spoil marriages by making their fathers "jealous" and rendering their mothers "depleted."

But above all, babies add numbers to the population. Though modern sex education claims to relieve students from all anxiety regarding any means of sexual expression, it imposes its own burden of guilt: Those who add to the population "explosion" are guilty of unforgivable sin. The promotional literature makes it clear that the population-control purposes of sex education override any interest in "education for love" or "healthy positive attitudes." Fully one-quarter of the Burt and Meeks "Speech" is concerned with the "major problem of our times"—the population "explosion." The Speech states that the so-called "explosion" is responsible for unemployment, pollution, poverty, and starvation. The Speech tells listeners they have already "encountered the problem" on a personal basis while "attempting to get a bowling alley," "waiting your turn to play golf," and "looking for a place to hunt, fish, or camp."

Not content with thus playing upon middle-class impatience at waiting in any line for any reason, the authors erroneously claim that "world population is increasing at a rate of 2 percent per year whereas the food supply is increasing at a rate of 1 percent per year." (In fact, the world food supply in the period since World War II has increased substantially faster than population, and per-capita food supplies are now at their all-time highs, despite attempts by several countries to curtail production.) The Speech threatens that unless the so-called "population explosion" is brought under control, average world food intake will decline to mass-starvation levels by the year 2000.

Nor is the Speech exceptional. The leading proponents of sex education have all frankly espoused it as the most effective and politically acceptable form of population control. In its *Implementing DHEW Policy on Family Planning* (1966), the Department of Health, Education, and Welfare touted its sex-education projects as a means of "effective fertility control," especially among minorities. Planned Parenthood and the Sex Information and Education Council of the U.S. (SIECUS) have long taught that sex educators have the duty to change people's values so as to reduce their fertility. As Dr. Mary Calderone, a leader in both of these organizations, put the problem of inducing people to want and to beget fewer children, "If man as he is, is obsolescent, then what kind do we want in his

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place and how do we design the production line? . . . In essence, that is the real question facing . . . sex education."

The sex curriculum adopted in my city places major emphasis on "population stabilization" and the "effects of overpopulation . . . crowded housing, lack of farmland . . . famine and eventual death." Seventh-grade students in my city are told to "consider future generations" and are shown films on the "overpopulation" threat. The teaching unit on "Contraception and Population Stabilization" instructs these seventh-graders in the contraceptive methods which they can use to avert the horrors of overpopulation. They are also instructed in "the permanent methods of birth control—vasectomy and tubal ligation," which they can use to defend themselves against this threat, and are told where they can obtain this protection. To maintain the pressure, local health departments throughout the country distribute impassioned warnings about the population "explosion" in periodic newsletters; here in Humboldt County the *Family Planning News* regularly sounds the population alarm by reprinting and distributing to teachers sundry threats of the calamities to ensue from "excessive fertility." The so-called "teenage pregnancy epidemic" stimulates additional alarms.

The "values clarification exercises" so much emphasized in modern sex classes carry out these themes. The following "exercise" appears in Sidney B. Simon's widely-used *Meeting Yourself Halfway: 31 Value Clarification Strategies for Daily Living* (Argus, 1974):

> The population problem is very serious and involves every country on this planet. What steps would you encourage to help resolve the problem?
> [1] volunteer to organize birth-control information centers throughout the country
> [2] join a pro-abortion lobbying group
> [3] encourage the limitation of two children per family and have the parents sterilized to prevent future births

But, above all, the teaching emphasizes that the student should take responsibility for limiting his own procreation by means of contraception, sterilization, or abortion. Also, "if you're not supposed to go after a girl . . . masturbation is a perfectly acceptable, useful, comforting thing," counsels Planned Parenthood in *The Problem with Puberty*, distributed for use in schools. Finally, homosexuality also achieves the movement's goal of separating sex from reproduction.

Though a full discussion of the population question would be beyond the scope of this article, it should be noted that the dooms-

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day view of the subject is not universally, or even very widely, shared by knowledgeable specialists in economics and demography. The significant point, however, is that under the guise of providing publicly-funded sex education, a particular interest group has found the opportunity to promote its unique view of the population "crisis." In undertaking to finance and promote a multi-million-dollar program of public sex education, the government has entered very heavily into the promotion of a particular world view and the establishment of a chosen ideology, a kind of secular religion. That is a posture the public and Congress would do well to examine anew.

Biology or ideology

Future policy should avoid excess—even though the extreme actions of the sex lobby invite extreme responses. Sex, taught as a part of biological science, is a valid study—from eggs and chickens in kindergarten to the miracle of human reproduction studied in higher grades. Indeed, this is the way good schools, both public and private, have traditionally taught sex. Numerous excellent biology textbooks and other teaching materials are in existence to support this traditional scientific instruction. Nor is there any reason why those students whose parents want them instructed in various methods of birth control should not receive this information from their physical-education teachers.

The question of the degree to which schools should be concerned with "values clarification," however, is a thorny one. Schools have traditionally been entrusted with the task of "molding character," but this responsibility offers as well an opportunity for ideologues to propagandize. Clearly, the emerging sex lobby is making every effort to use the schools to mold minds in the direction of a new morality which claims that though sex should be freely and widely enjoyed, the principal human responsibility is to limit human numbers.

Those who oppose this reduction of all philosophical and ethical thought into a grotesquely simplistic capsule cannot ask that the schools teach *no* values, since this would be both logically and practically impossible. But what values? Certainly, at the very least, parents have the right to demand that the schools *not* be used to induce guilt in children and young people for aspiring to become parents. As an immediate, practical recommendation for sex education, the advice of a citizens' group in this county may have been as good as any: It recommended that sex be taught as a biological science,

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with the permission of parents, and it recommended that the teaching of values be regarded as a family responsibility primarily, with the schools teaching "respect for the traditional moral values shared by most groups in our society."

The objectionable feature of the programs now being promoted by Planned Parenthood, the public-health establishment, and other members of the sex lobby is not that they teach sex but that they do it so badly, replacing good biological instruction with 10 to 12 years of compulsory "consciousness raising" and psychosexual therapy, and using the public schools to advance their own peculiar world view. One can only hope that not only biological science, but education itself, can withstand the assault.

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The new regulation comes to suburbia

BERNARD J. FRIEDEN

THE spread of a new kind of government regulation through the country's economic life has provoked growing doubts about the goals of regulation and its cost to society. Past research is not very helpful in resolving these doubts. As Paul Weaver pointed out in the Winter 1978 issue of *The Public Interest,* the traditional description of regulation no longer fits the realities. Most of the new regulatory agencies enjoy considerably more authority than their predecessors in an adversary setting that discourages anything like the old compromises. It remains a question, however, whether more power for the regulators produces more benefits for the public. One way to find out the answer is to take a close look at how a new-style regulatory system works in one field—who uses it, for what purposes, and with what results.

Homebuilding is a closely regulated industry, but it has not attracted much attention in the current debate because the regulators are state and local agencies operating outside the spotlight of the national media. State and local governments across the country have joined the trend toward tighter regulation by putting into place a

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This article is based on the author's book, The Environmental Protection Hustle, *recently published by the MIT Press.*

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variety of new laws, permit requirements, and review procedures for land development and housing construction. The driving force behind much of this was the sense of environmental crisis that emerged in the late 1960's and the commitment that it fostered to protect the natural environment against unrestrained suburban growth. By 1975 half the states had begun to require environmental-impact reviews for at least some private housing developments, while suburbs by the hundreds rushed to apply new growth-management techniques. The resulting "permit explosion" came at a time when the gigantic postwar generation was just reaching the home-buying stage of family life. Millions of young families therefore had an important stake in whatever effects the new environmental and growth controls were going to have on homebuilding.

The growth-control movement is a national trend, but its power is especially evident in areas where many local governments have become involved. The practical implications of the movement's ideology can be seen most clearly in these areas, of which northern California is the outstanding example. A look at the way growth controls are working there turns up disturbing evidence that confirms the suspicions of critics of the new regulation.

Environmental and growth controls have laid heavy cost burdens on California homebuyers. They have been contributors to the exceptional inflation of house prices there; yet they have produced few corresponding environmental benefits for the public at large. The benefits have gone mainly to established suburbanites in the tightly regulated communities that have protected themselves against the inconvenience of growth. But the growth has gone elsewhere in the region, usually to places where the environmental costs are higher. Contrary to widespread belief, environmental regulation of homebuilding is not simply a minor cost of doing business; it is a way of blocking developments and disrupting housing markets. California's experience amounts to a demonstration of how the new regulation can be turned against the average family.

A familiar critique

What are the environmental goals that justify the new growth-management controls? The leading environmentalist analyses of urban growth problems, such as the Rockefeller Brothers Fund's *The Use of Land*, start with a critique of suburbia that dates back to the 1940's and 1950's. They characterize suburbia as inefficient, monotonous, and ugly. What makes it that way, in their view, is the

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scatter of small subdivisions through the open countryside as well as the unimaginative designs of individual developments. Conventional suburban tracts offer nothing more than single-family houses standing on individual lots, with no mixture of other housing types, no common open space, and no facilities that would encourage community activities.

Social-science research (such as Herbert Gans's *The Levittowners*), as well as the evidence of the marketplace, suggests that most Americans find this same suburbia highly desirable and satisfying despite its faults, but in an age conscious of resource and budget limits, energy conservation, and air quality, the 20-year-old critique has come to life again. The problems emphasized today are that sprawling developments add unnecessarily to the cost of building roads and utility lines to reach them, while the spread of new homes across open territory adds extra miles to commuting trips and therefore increases gas consumption as well as air pollution. So there are some plausible environmental arguments in favor of managing suburban growth differently. To cope with the problems of suburban sprawl, environmental analysts consistently favor locating new housing on left-over parcels of open land near already built-up areas. As an alternative to small tracts of single-family homes, they support large "planned-unit developments" of several hundred homes, offering a variety of housing types, built-in community services and facilities, and unified site designs that cluster the houses around common open space. Part of this program for more compact use of land is to channel the planned developments into places where they will not damage outstanding features of the natural landscape.

If new community-growth management produced these results, we could count it a success in environmental terms and then go on to investigate how much it costs and who is paying the bill. But the record of development controversies in northern California shows that neither environmentalists nor most others who use the new regulatory systems actually support proposals for compact, planned-unit developments on left-over sites. Of five major developments that I studied in the San Francisco area, four were of this kind; yet environmental groups opposed them all. They based their opposition on a general ideological commitment to stop the development of open land, without giving any sign of a real commitment to guide the growth of the San Francisco area according to environmental principles.

The stands environmental activists take in development controversies tell more about their purposes than the doctrines of environ-

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mental literature. In the San Francisco area, the Sierra Club opposed some suburban housing on the grounds that it would generate unnecessary long-distance commuting—a position consistent with environmental-management principles. But when other housing was proposed close to a suburban industrial belt, they opposed that too, on the grounds that new housing should instead be located close to the central cities. When another large development was proposed just outside San Francisco, the Club once again came out in opposition because it would, they said, use up scarce open space close to the urban population. Another environmental group, People for Open Space, objected to housing in the valleys near San Francisco because the soil was better suited to farming, but they also objected to housing on the hillsides, on the grounds that hill developments would increase the chances of landslides, floods, and fires. The main principle underlying all these positions seems to be hostility to growth of any kind.

The fact that growth regulation is in the hands of local suburban governments makes it especially inviting to growth opponents, and encourages others to join environmentalists in exploiting the system to stop new housing. Local officials who preside over the process and make the final decisions have no incentive to strike a fair balance between the need for new housing and the protection of the environment. The voters who elect them have no interest in supporting new housing, since most of them are already comfortably established in their own suburban homes, and are in fact more likely to worry about the threats new developments may pose to their own social, fiscal, and environmental advantages. Aside from the inconveniences of having construction work nearby, there is always the possibility that new neighbors may lower the social tone, demand costly public services, congest the local roads, and crowd the schools —all this while spoiling open vistas with their new homes. As a result, the long list of speakers who come to the drawn-out public hearings on growth regulation are almost uniformly opposed to new housing. The only person with a commitment to build is the developer himself, but he is usually an outsider regarded with the deepest suspicion. Participants in the public hearings tend to speak of him as if he were a snake-oil salesman rather than a legitimate businessman providing a useful product. Occasionally building-trade unionists with a stake in construction jobs will come to his support, but opponents from areas near the site and anti-growth environmentalists almost always dominate the proceedings.

The localism of this regulatory system shuts out the people who

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have the greatest stake in its outcome: families who want to buy homes. Most of them live outside the community, and until they turn up to look at model homes there is no way of even knowing who they are. They are unorganized, and probably unorganizable. Nobody in the proceedings represents their views except, by default, the builder, and he is a very poor representative. His own position is very weak, there are conflicts of interest between him and his clients, and he is prepared to make compromises that will be costly to home buyers if that is the only way to get his permit.

The purpose of new environmental and growth-control systems, then, is above all to protect the existing community against unwanted change. Homebuilders confront a powerful alliance of fearful residents, the local officials responsive to them, and environmentalists with ideological commitments to preserve as much open space as possible. None of the usual participants sees much value in building homes, while almost all of them consider the protection of the existing environment an unqualified good thing.

Managing the growth freeze

The establishment of new growth controls, in an atmosphere of widespread concern about environmental protection, has spread the belief that each community alone has the right to decide how much homebuilding it wants to accept. Local officials acting on this principle have shown rare ingenuity in inventing techniques for stopping growth while staying within their legal authority. Some communities have taken traditional land-use controls, such as large-lot zoning, and made them tougher. Suburbs in much of the country discovered long ago that they could discourage the building of homes for a middle-income market by requiring excessive lot sizes, such as two or three acres per house. They rarely thought of going beyond five acres per house, since they believed the courts were likely to find such requirements unreasonable. But counties around San Francisco have already gone to minimum requirements of 20, 40, and even 60 acres per home in agricultural areas. Many suburbs have also taken advantage of recent state legislation to establish large agricultural or open-space preserves, where property owners agree to withhold their land from development in exchange for reduced tax assessments, with the state compensating participating counties for some of the tax losses.

Local governments also freeze land from development by drawing up boundaries beyond which they will not extend utility lines. Many

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in California and elsewhere have imposed moratoria on new utility connections even where water and sewer lines are already in place. The formal justification for a moratorium is usually some temporary shortage of water supply or waste-disposal-treatment capacity, but many places are in no rush to solve the problems and some even purposely create them. Marin County's water shortage made national news when the county put a strict rationing scheme into effect in 1976 and 1977. Although the press attributed this situation to abnormally low rainfall, Marin's drought was mostly man-made. Several years earlier conservationists on the water board had decided that a good way to block possible population growth was to avoid tapping any new sources of supply. The lack of water reserves then justified the moratorium on new water connections that began in 1973. A few exceptionally dry years beginning in 1975 promptly used up most of what was in the reservoirs, and cut off the water even for people already living in the country.

Other communities discourage homebuilding by putting a direct tax on each new home in the form of special "hook-up" charges for the use of public services. These sometimes add more than $5,000 to the cost of a single-family house. A few places, of which Petaluma is best known, have taken the more direct approach of setting an annual quota for new building permits.

The homebuilder who somehow threads his way through the zoning restrictions, agricultural preserves, and permit moratoria is not yet in the clear. Another consistent feature of the new growth regulation is a long and complicated series of government reviews that eventually leads to a decision on his development plan. Traditional land-use controls set out specific requirements for lot sizes and setbacks, street widths, and utility-pipe capacities. If a plan met the requirements, it was normally approved. The new growth controls depend instead on a series of discretionary reviews in which governmental bodies use far more ambiguous standards to judge the quality of a proposal, the adequacy of its public-service provisions, the impact it will have on its surroundings, and its suitability for the site. Developers bring their plans from one regulatory body to another, and sometimes more than once to the same place. At each stage, county agencies commission time-consuming technical studies and hold drawn-out, usually abrasive, public hearings. In addition to local government requirements, state law in California mandates the preparation of an elaborate environmental-impact report for all important housing developments, with the result that California communities now prepare some 4,000 environmental-impact reports a

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year—four times as many as the Federal government. The report then becomes the subject of separate sets of hearings before the particular county's planning commission and its board of supervisors. These deliberations can consume a great deal of time: One big and complicated proposal in San Mateo County went through nine years of reviews and negotiations before the board of supervisors finally killed it. Other big projects usually take three or four years to complete all the reviews; small ones may finish in two years.

Despite the trappings of scientific analysis in the environmental-impact studies, the review process itself is basically political. Its major function in practice is to give local residents plenty of time to organize their opposition and repeated chances to block approval of a project. Nor do the technical studies provide a counterbalance to ideological opposition. Most of them highlight every feature of the proposal that could conceivably create future problems, using worst-case assumptions about how costly it will be to service new residents and often exaggerated assessments of how threatening the development will be to the natural environment. In the San Mateo County nine-year review, for instance, official studies claimed the housing development was a threat to two endangered species. An independent review discovered that one of the species was neither rare nor endangered, and that the presence of the other on the site had never been verified. In reviewing a different housing development, Contra Costa County officials even conjured up claims that it would somehow hurt our national bird, the bald eagle. Although they conceded that bald eagles neither nested nor fed in the area, they argued that the eagles might sometime fly over the site.

If a proposal appears to be making headway through the review process, or if it is actually approved, opponents have still another powerful tactic for stopping it: lawsuits and the threat of lawsuits. Environmental groups and other opponents often go to court to challenge the validity of local decisions or the adequacy of the environmental-impact reports used in reaching them. Litigation is a deliberate tactic used to stop homebuilding, which is employed even when the chances of winning a case are small. A handbook for local environmental activists gives this advice: "Lawsuits have a number of advantages. First of all, there is obviously a chance of winning the suit. However, the mere threat of a suit can also be an impressive political tactic. . . . Suits can be an effective delaying tactic in order to force compromises. . . . Extensive delay may even force the developer to abandon his plans due to financing difficulties." Growth opponents take this advice to heart. Between 1971 and

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1975, lawsuits brought on environmental grounds alone challenged development proposals concerning 29,000 housing units in the San Francisco region, an amount of housing equal to two-thirds of a year's normal production.

Back to the drawing board

Local environmental and growth regulation is so heavily slanted against development that builders soon learn to make compromises in order to survive. Defenders of the new regulation maintain that environmental reviews are a way of getting developers to correct specific features of their plans that might have detrimental effects—say, to redesign a drainage system or keep the bulldozer away from a particularly scenic hillside. According to this view, the developer keeps most of his plan intact but makes a few beneficial changes at minor cost to himself and to the people who buy his homes.

It doesn't happen that way in northern California. Developers manage to get approval for large projects only by going back to the drawing board to eliminate much of the housing they intended to build, and to redesign what is left for a luxury market. One good example is a development plan proposed for the Oakland foothills in 1971 which contained 2200 houses and apartments with an average price just under $30,000. After a five-year controversy involving the usual reviews and hearings, a citizens-group lawsuit, and the threat of a second lawsuit, the developer came to terms with his opponents by drawing up a totally new plan. He eliminated 90 percent of the housing he had originally proposed and carved up most of his site into 100 large "estate lots" priced to sell from $35,000 to $75,000 for the land alone. What remained of his own homebuilding plans were 175 single-family homes to be priced between $40,000 and $60,000. In Alameda, a more ambitious plan filed in 1972 called for building 9,000 condominium units at prices that were expected to range from $21,000 to $37,000. Here a four-year controversy led to passage of a local referendum prohibiting further apartment construction, repeated compromises on zoning, two major revisions of the plan, the preparation of no fewer than three separate environmental-impact reports, and a half-dozen lawsuits. The outcome was a compromise plan in 1976 that eliminated two-thirds of the housing and tripled the price of the rest.

This is a consistent pattern of compromise. The big developments that survive regulatory reviews and environmental controversies do so by cutting back their plans for homebuilding. This solution satis-

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fies environmentalists because it leaves more of the land open and untouched, and it satisfies nearby residents because there will be fewer newcomers to inconvenience them. But it is a solution that inevitably drives prices upward, because the developer has to spread his land and overhead costs among fewer homes. Knowing that the price increases will put his houses out of reach of families with average incomes, he has to redesign both his development and his houses to appeal to people in higher income brackets. So the solution is not a happy one for the average family that wants to buy a home.

Neither does this solution make sense as a way of managing urban growth according to environmental principles. In fact, it leads to the opposite of the efficient use of land that environmentalist critics want to encourage. In places like Oakland and Alameda, it means using scarce open sites close to jobs and transportation at far less than their reasonable capacity. People who could have lived in these places will instead have to go further from the urban centers in order to find new homes they can afford. There they are likely to commute longer distances to work, at higher costs in time, energy consumption, and air pollution.

Housing market disruptions

Although the effects of the new regulation show up most clearly in the inflated prices at individual projects, its indirect effects on the larger housing market are even more important. In four large projects that I studied, regulatory decisions and compromises between 1972 and 1976 eliminated 22,000 housing units—half the normal annual construction volume for the entire San Francisco Bay Area—that developers originally intended to built. Regulatory controversies surrounding other developments at the same time probably affected at least as much new housing as in the cases I studied. The housing that was scrapped would not have become available right away: Much of it was scheduled for later phases of projects that would extend several years into the future. Still, the losses were great enough to make a dent in the supply of new homes becoming available during a time of very strong demand.

When real estate ventures abort, for whatever reason, some other developer will normally find a way to build for the unmet demand. But delays under market conditions of the 1970's raise housing costs abnormally. First, delays mean that potential buyers are putting upward cost pressure on a limited supply. Second, the period has

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been one of steady inflation in construction costs. Moderate-cost housing that was feasible in 1973 was no longer feasible for the same price by 1975 or 1976. With construction costs rising faster than consumer incomes, building later meant building much more expensive homes.

The new regulation also reduces competition at the point of sale. One builder told me of his long and trouble-filled experience trying to develop housing in the California coastal zone, where the regulations are especially tough and time-consuming. His problems were so numerous that I asked why he kept on trying to build near the coast. He agreed that the risk of having his proposal rejected was very high, but pointed out that any developer who manages to survive the regulatory reviews will have a virtual monopoly on new housing along the shore and will be able to market his homes at an exceptionally high return. In any local area where the demand is strong and permits are scarce, the terms of competition are changed. Homebuilding has traditionally been a very competitive, small-firm industry, and the competition for the consumer's dollar kept prices down. Now builders compete against each other *for permits,* and those who can manage to obtain them and build will face very little competition in the marketplace.

Regulatory delays also disrupt markets by preventing homebuilders from responding quickly to changes in demand. Homebuilding is a highly cyclical industry, with wide swings in demand depending on the availability of mortgage money. When California began to recover from the recession and building slump of 1974-75, record inflows of deposits to savings and loan associations made mortgage financing suddenly available on a massive scale, and let loose a flood of eager home buyers. But builders who sensed the quick turnaround in housing demand were unable to build soon enough to meet it. Getting a building permit had become a two-year process for most developers. The collision of sudden demand and slow production resulted in housing shortages, widespread buying on speculation, and tremendous increases in home prices in the major California markets in 1976 and 1977.

After 10 years of inventing and applying new growth controls, San Francisco now has housing prices to match its standing in the environmental movement: first in the country on both counts. Between 1970 and 1977, the average price of new homes almost doubled in metropolitan San Francisco, going from $39,600 to $75,400 —the fastest rate of increase and the highest 1977 price level of any large metropolitan area. Its 1977 price level was one and one-half

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times the naional average, with most of the difference probably resulting from the combined effects of growth restrictions, environmental politics, lawsuits, construction delays, and project revisions. In addition, the high price of new homes generated strong demand for older houses that drove their 1977 average price up to $71,000, which was also one-and-one-half times the national average.

Consumers are paying for the new regulation by getting reduced housing choices as well as high prices. As the counties closest to the center of the region clamped on the tightest growth controls, moderate-cost new homes virtually disappeared from much of the area. Homebuilding for the average family shifted further out. Marin County, lying just north of the city of San Francisco, managed to reduce its share of the region's homebuilding after 1970. Most people who wanted to buy homes in that part of the Bay Area had to look next in Sonoma County, in communities lying 40 or more miles from downtown San Francisco and even further away from most other job centers. During the 1970's, Sonoma County doubled its share of the region's homebuilding.

Further, the controversies that have surrounded almost every large planned-unit development have sent a message to homebuilders: To avoid regulatory trouble, build on the fringe of the region—where there are fewer neighbors to raise objections—and build only a few houses at a time. Small developments do not attract the attention of environmentalists, and very few people bother to bring lawsuits against them. But small conventional developments also cannot offer the community facilities, common open space, and varied housing types that many people value. The new regulation is well on the way to prompting a return to old-style suburban sprawl, with less choice for consumers and more faults to anger the environmental critics.

Who benefits?

More power for the regulators has not produced more benefits for the public at large. But it has given some influential groups what they want, particularly established suburbanites who are anxious to protect their turf. Protecting the suburban single-family neighborhood has always been a basic purpose of local land-use controls. In the past, that meant mainly keeping out unwanted neighbors, such as the poor and minority groups. With the new regulation in hand, suburbanites have raised their sights higher to aim at keeping out even the average middle-income family. The current goal is no

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longer to exclude people who are different, but to freeze growth for the sake of preserving scenic resources and the appearance of a small town. With the new regulation, it is possible to freeze growth at very low cost, since there is no need for the taxpayers to buy open land in order to block homebuilding. Besides, the ready availability of environmental rhetoric gives new respectability to what would otherwise appear to be narrow self-interest. Suburban-growth opponents now declare themselves to be guardians of scarce resources who preserve land for the sake of future generations.

Environmental ideologues also benefit from the new regulation. They take pride in preserving open space wherever they can, without considering that stopping growth in one location usually means shifting it somewhere else. And their ideology fits comfortably with their self-interest. Environmental activists are mostly well-educated, well-to-do professionals and executives who can afford to live in tightly regulated suburbs. Their concern is clearly not with improving the environment for the public at large, but mostly with looking after their own environment.

Sometimes the new regulation boomerangs against the people who support it, as in the case of the residents of Marin County whose water policies not only kept out newcomers but made their own taps run dry. But there are hardly enough self-correcting features to suggest that suburbanites will themselves turn against the new environmental and growth controls. Californians in fact have managed to eliminate one of the few penalties suburbanites did begin to pay for freezing growth. When highly desirable communities succeeded in blocking most new homebuilding, people who wanted to move in began to bid up the price of older houses. California's efficient tax assessors promptly raised the property valuations, and local governments enjoyed a property-tax windfall. By early 1976, Marin County residents were protesting their new assessments. But the passage of Proposition 13 protected homeowners from tax increases by rolling back assessments to 1975-76 levels and limiting the tax rate to 1 percent. California's growth controls helped trigger the events that led up to Proposition 13, but now suburbanites can safely continue to restrict homebuilding and enjoy the rising value of their own homes without feeling much pain in their tax bills.

The main victims of new environmental and growth regulations are young families trying to buy their first home. They are a very large group, but not as large as the number of homeowners who have already gained a foothold in suburbia and want to close the gates behind them. And the young families are not organized in a

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way that would allow them to influence suburban policies. They may eventually turn to state government to limit the power of local growth regulators. However, many homebuyers underestimate the cost of local regulation and attribute high prices entirely to an inflationary national economy. The underlying inflation does indeed have its origins elsewhere, but local growth policies are making an important contribution of their own.

Despite the bizarre nature of many of the environmental controversies around San Francisco, northern California's growth policies are not unique. Development restrictions are on the rise across the country. Nationwide, builders report increasing delays in the time it takes to get building permits and cite as the most frequent result of environmental reviews a reduction in the amount of housing they can build. California is more a leading indicator than an aberration. As the new environmental and growth controls spread to other parts of the country, the old Hollywood slogan may well apply: "Watch for it soon in your own neighborhood."

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The welfare state vs. the redistributive state

MARC F. PLATTNER

In the course of the 1970's, the United States has been engaged in an intensifying public debate over the future of the welfare state. At the present moment, widespread concern about inflation, along with resentment against high taxes and "big government," is creating pressures toward a modest retrenchment in spending on social programs. We will probably be witnessing further efforts to make these programs less wasteful and more efficient, and even to eliminate some of the more unproductive and intrusive ones. But despite the hopes of some on the Right and the fears of some on the Left, these efforts are not likely to lead to the crippling or destruction of the welfare state; indeed, if successful, they will undoubtedly conserve and strengthen it.

During the past decade, however, there has also been another noteworthy development in the debate over the welfare state. This more subtle but nonetheless critical change, which has been promoted largely by academics and intellectuals on the Left, amounts to nothing less than an attempt at a fundamental redefinition of the very purpose of the welfare state. This new vision of the purpose—and the agenda—of the welfare state can be expressed in a single phrase: the redistribution of income.

Now it might appear that such a platform would be nothing new

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for American liberalism, but merely more of the same medicine it has been prescribing for many years. After all, the United States has had a progressive income tax since 1913, and an extensive set of social-insurance and welfare programs at least since the New Deal. In more recent years the scope of these so-called income-transfer programs has grown enormously, and therefore the United States is already redirecting a vast amount of income from its richer to its poorer citizens.

But while the principles of progressive taxation and of the welfare state have come to be almost universally accepted, it would be a serious error to infer that the American polity has ever embraced the idea of income redistribution. Properly speaking, a policy of income redistribution is one that is *explicitly* aimed at reducing inequality in incomes. And the legitimacy of this goal has never been endorsed by the American people or their elected representatives. The progressive income tax was generally justified, not as a means of channeling funds from the rich to the poor, but as a fair distribution of the tax burden according to the taxpayer's ability to pay. The rationale was not that after-tax income should be made more equal, but rather that there should be an "equality of sacrifice" among the citizenry in meeting the revenue needs of government. As Walter J. Blum and Harry Kalven Jr. argued in their classic study *The Uneasy Case for Progressive Taxation,* progressive taxation was originally able to become a "respectable idea in our society" precisely *because* it was justified on non-redistributive grounds.

Similarly, social-insurance programs were meant to provide a cushion against particular contingencies, and welfare and other anti-poverty measures were intended to relieve those who were unable to provide for their own needs in a minimally acceptable fashion. But one can easily accept the principle of public insurance on the one hand and public charity or relief on the other without acknowledging the propriety of governmental efforts to promote the goal of greater equality of incomes. And, in fact, the United States has adopted an impressive array of policies that wind up transferring money from the rich to the poor, but it has never approved a policy of explicit income redistribution. J. R. Pole, in his recently published *The Pursuit of Equality in American History,* asserts, "Not until George McGovern became a Presidential candidate . . . was the question of income redistribution placed on any party's agenda for serious political consideration . . ." The fate of McGovern's "demogrant" proposal—and of his candidacy—shows how far the American public is from accepting the legitimacy of income redistribution.

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Two views of taxation

The hostility of the American people to income redistribution is clearly recognized by the most intelligent and forthright of its proponents. A notable example is Christopher Jencks, whose *Inequality* is perhaps the most explicit attempt to discredit the principle of equality of opportunity that animated social-reform efforts in the 1960's and to put in its place the principle of equality of result, with income redistribution as its chief instrument. The final chapter of Jencks' book features the following conclusions:

> The crucial problem today is that relatively few people view income inequality as a serious problem . . . .
>
> If egalitarians want to mobilize popular support for income redistribution, their first aim should be to convince people that the distribution of income is a legitimate political issue. Americans now tend to assume that incomes are determined by private decisions in a largely unregulated economy and that there is no realistic way to alter the resulting distribution. Until they come to believe that the distribution of income is a political issue, subject to popular regulation and control, very little is likely to change . . . . We need to establish the idea that the Federal government is responsible not only for the total amount of the national income, but for its distribution. If private decisions make the distribution too unequal, the government must be held responsible for improving the situation. . . .
>
> . . . [I]f we want substantial redistribution, we will not only have to politicize the question of income inequality but alter people's basic assumptions about the extent to which they are responsible for their neighbors and their neighbors for them.

It is doubtful whether Jencks' exhortations have had much of an impact on the thinking of most Americans. However, the redistributionist premise has made considerable headway among those directly involved in the discussion and formulation of public policy. Increasing attention is being paid to the distributional consequences of government policies and programs; there is a growing sense that the distribution of income is a proper political concern; and there is a marked tendency to view specific public policies as justified only if—whatever their other effects—they contribute to (or at least do not work against) a narrowing of income inequalities.

Consider the public debate about the propriety of some form of tax credits or deductions for parents paying college tuition for their children. A principal argument employed by the opponents of such a policy is that it would bring greater savings to those taxpayers in the upper half of the income spectrum and thereby make the post-tax distribution of income more unequal; moreover, it would result in some tax reduction even for tuition-paying parents

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who are at the very top of the income distribution. These overall distributional arguments are regarded by many as outweighing any specific considerations relating to the tax treatment of college tuition: whether, like homeownership, college attendance should be encouraged by Federal tax policy; and whether it is fair that two otherwise identical families (say, with incomes of $25,000) should bear the same tax burden if one is supporting two children in college (say, at a cost of $8,000 in tuition) and the other has no college expenses. In a wide range of other policy areas, there has been a similar tendency to give greater weight to overall distributional implications, especially where the tax system is concerned. Tax policy is increasingly viewed by public-policy experts as a way to redistribute income, rather than as a way to apportion the financial sacrifice citizens must make to support their government.

The distinction between these two conceptions of taxation is nicely illustrated by another quote from Jencks' *Inequality*: "Americans have a strong feeling that once they have 'earned' a sum of money, it is theirs to do with as they please. They view taxes as a necessary evil, not as an instrument for making the distribution of income more equal." This appraisal is surely correct. It is true that, insofar as Americans generally endorse the notion of the progressive income tax, they accept the view that the better off should contribute a somewhat greater proportion of their incomes than the less well off toward defraying the cost of public business. Yet, most Americans still adhere to the traditional conception of taxation, according to which citizens pay a share of *their own* income to provide for the *common* expenses. The redistributionist view, by contrast, implies that the income obtained by individuals is not their own but that of the society as a whole. Hence, in assessing the rate of tax on an individual the government is deciding not how much of his own income it will require him to pay, but how much of the society's income it will allow him to keep. And if it allows its more productive citizens to keep a more than equal share of the national income, this is only because the government has decided that allotting unequal shares will promote a more efficient and more productive national economy—not because the more productive citizen is in any way *entitled* to a larger income.

Justifying redistribution

How can the redistributionist position be justified? On this question Jencks is not very helpful. The only theoretical support he

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offers for his egalitarianism is a brief paragraph arguing that equal incomes "maximize the satisfaction of the population" (later followed by the somewhat inconsistent assertion that "need should play a larger role than it now does in determining what people get back from society"). But in any case, arguments or assertions about the *desirability*, in the abstract, of a more equal society cannot by themselves suffice to establish the *justice* of income redistribution. We could doubtless achieve many desirable things with other people's money, but this does not mean that we have the right to take it from them. To justify income redistribution (as distinguished from a fair distribution of the tax burden), it is necessary to show that individuals somehow do not have a just title to the income they have earned —and that what individuals have "earned" (as Jencks would have it) therefore may rightfully be thought to belong to society as a whole.

Such an attempt to show that individuals do not have a valid moral claim to the income they have earned is made by Arthur Okun in his *Equality and Efficiency: The Big Tradeoff*. As the title of his work indicates, Okun is willing to allow the case for redistribution to be limited by the need for unequal incomes as an incentive for greater economic efficiency. Yet despite his moderate tone and his unabashed admiration for the efficiency of the market mechanism, Okun's arguments wholly undermine any moral basis for opposing the most thoroughgoing redistribution of income. He finds that "the ethical case for capitalism is totally unpersuasive," because he holds that the incomes that the market yields cannot be regarded as "fair" or "deserved."

Okun begins his discussion by citing the "so-called marginal-productivity theory of distribution," according to which a perfectly competitive market "will pay workers and investors the value of their contributions to output." He then points out that in the real world, various market imperfections prevent the distribution that would be yielded by a perfectly competitive market from being fully realized. At this point in the argument, some critics believe they have completely undermined the case for granting any ethical value to the distribution produced by real-world markets. Yet the critique founded on market imperfections implicitly assumes that marginal productivity is the true criterion of just distribution. Thus, the moral bearing of this critique seems to be, not that we should blithely override the distributional outcome of real-world markets, but that, in the interests of justice, we should strive to make those markets as competitive as possible.

Okun himself appears to realize the insufficiency of the critique

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based on market imperfections. Hence he proceeds to challenge the fundamental notion that rewards corresponding to contributions to productivity are fair or just. He launches this challenge by citing the problem of inequality of opportunity: The contributions that people are able to make are affected by the unequal material and cultural advantages that they derive from their family backgrounds; therefore, competition in the marketplace is unfair in the same way as a race in which the contestants are not assigned equal positions at the starting line.

The question of whether and to what extent inequality of opportunity vitiates the justice of unequal rewards is a complex and difficult one. But inequality of opportunity is not the fundamental ground on which contemporary advocates of redistribution like Okun choose to rest their case. And it is easy to see why. For just as the critique based on market imperfections implicitly assumes the justice of rewards distributed by a perfectly competitive market, so the critique based on inequality of opportunity implicitly assumes the justice of market rewards insofar as equality of opportunity prevails. That is, it assumes that once the starting positions for all contestants are made equal, justice requires that rewards be given according to how well one performs in the race. Hence this critique suggests that the best way to achieve economic justice would be through a strategy aimed at eliminating the factors that make for an unequal start (the strategy that animated much of the Great Society). Any attempt to correct for the effects of inequality of opportunity simply by redistributing income from high earners to low earners inevitably would unjustly penalize or reward many individuals—those who achieved high earnings despite lesser opportunities and those who wound up with low earnings despite greater opportunities. Moreover, *since even the wholesale elimination of inequality of opportunity would achieve only a relatively small reduction in the overall inequality of income,*[1] *the critique based on inequality of opportunity could in any case justify no more than a rather modest redistribution of income.*

[1] Jencks and his colleagues offer the following conclusion: "Our best estimate is that family background explains around 15 percent of the variation in incomes. . . . This implies that even if America could reduce inequalities in opportunity to the point where they were no greater than those that now arise between one brother and another, the best-paid fifth of all male workers would still be making 500 percent more than the worst-paid fifth. We cannot, then, hope to eliminate, or even substantially reduce, income inequality in America simply by providing children from all walks of life with equal opportunity. When people have had relatively equal opportunity, as brothers usually have, they still end up with very unequal incomes."

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Thus the full-fledged redistributionist must attempt to show that even if there were complete equality of opportunity, with every competitor enjoying an equal start, it would not be just to reward the swift and the determined for their superior performance in the race. And to do this it is necessary to explain why the two chief characteristics that enable some to "run" better than others—namely, superior ability and superior effort—do not entail a legitimate claim to the fruits of the successes they bring. Okun's discussion of the moral status of what he calls "natural abilities" is rather sketchy, but his view seems to be the following: People's natural abilities are the product of the genes they inherit from their parents; but these are in no way "earned" by individuals, and hence they cannot be regarded as deserved; therefore those who receive superior genes enjoy an undeserved and unfair advantage over their less fortunate fellows. From here Okun leaps to the conclusion that "society should aim to ameliorate, and certainly not to compound, *the flaws of the universe*. It cannot stop rain, but it does manufacture umbrellas. Similarly, it can decide to restrict prizes that bestow vastly higher standards of living on people with greater innate abilities" (italics mine).

It is worth stopping to consider for a moment the bizarre metaphysical doctrine that is expressed in this passage. The universe is held to be flawed because some human beings are born with greater innate abilities of various kinds than other human beings possess. The clear implication is that the universe would be much improved if the existing distribution of innate abilities were replaced by a situation in which the innate abilities of all human beings alike were reduced (or increased) to the level of the current mean. It is hard to believe that Okun would really consider such a condition of universal human mediocrity—where there were no great scientists, or artists, or economists, or athletes, or statesmen—preferable to the "universe" that actually exists. A more likely and more charitable interpretation of this passage is that Okun was led to overstate his position by a momentary excess of egalitarian zeal. A bit later in his discussion Okun cites John Rawls' elaboration of the "principle of redress." Indeed, by turning to Rawls we can see a much more coherent statement of the viewpoint that Okun is here trying to present.

John Rawls' *A Theory of Justice* is the most ambitious and sophisticated attempt to provide a theoretical justification for the redistributionist view. And the foundation of Rawls' entire theoretical structure is the premise that greater natural talent or ability cannot

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provide a moral claim to greater desert or reward. Unlike Okun, Rawls recognizes that the "natural distribution [of talents] is neither just nor unjust"; it is simply a "natural fact." What he stresses, however, is that "inequalities of birth and natural endowment are *undeserved*" (italics mine). Because these differences in natural ability are undeserved, they are said to be "arbitrary from a moral point of view." Instead of exclaiming against the "flaws of the universe," Rawls speaks more reasonably and precisely of the "arbitrariness found in nature" or the "arbitrariness of the world." But the conclusion he draws from this is essentially the same as Okun's: Since superiority in natural ability is undeserved and hence arbitrary, justice calls not for rewarding those endowed with superior ability but for compensating those endowed with lesser ability.[2] In short, the redistributionist view is based on supplanting an *ethics of reward* in favor of an *ethics of redress.*

Effort

Before examining the claim that the arbitrariness of the distribution of natural ability justifies an ethics of redress, let us first consider how Okun and Rawls deal with the other human characteristic that allows some men to make a greater contribution to produc-

[2] It is worth noting that, despite the very different nature of his conclusions, Rawls shares to a surprising degree the premises of such notable champions of the free market as Friedrich Hayek and Milton Friedman. Like Rawls, Hayek and Friedman both assert that superior natural ability is undeserved and hence can generate no *moral* claim to superior reward. In part, they use this argument because they wish to defend inherited wealth by showing that inequality deriving from the inheritance of property is *no less* defensible than inequality deriving from the inheritance of superior natural ability. But in Hayek's case at least, this also points toward a further agreement with Rawls—namely, that the distribution of income in a market economy can in no way be understood as rewarding moral merit or desert. Rawls concludes from this that the market distribution lacks any ethical standing and thus should be overridden by government to promote greater equality. Hayek, while also holding that the market distribution has no ethical validity, opposes in the name of individual liberty any such attempt at governmental redistribution.

Hayek is quite explicit in asserting that the distribution of income in a "free society" cannot be defended in terms of correspondence between merit and reward, or indeed on the basis of any notion of distributive justice at all. (Hence Hayek's own defense of the free society is founded not upon considerations of justice, but upon considerations of freedom and efficiency.) I believe that this view is not only mistaken, but is bound to leave liberal capitalism morally disarmed in the face of redistributionist assaults like those of Okun and Rawls. This is not to deny, of course, that there are serious problems involved in attempting to provide a satisfactory moral justification for the distribution of income in a liberal society. But such a task, which would require a great deal more than a refutation of the redistributionist critique, far exceeds the scope of this article.

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tivity than others—namely, effort. Okun begins his discussion of effort sensibly enough:

> Differences in incomes that are associated with differences in effort are generally regarded as fair. If everyone were offered the same hourly wage rate and the opportunity to work as many hours as he or she chose, the resulting discrepancies on payday would be understandable. In fact, it would seem unfair for the person who takes more leisure to get just as much income. Leisure is a form of income and an element in one's standard of living; thus, a sacrifice of leisure must be compensated in other ways if fairness is to be achieved.

But he then proceeds to muddy the waters with his subsequent paragraph:

> Extra income for extra effort is unquestionably useful in providing incentives as well as fair compensation for parting with leisure. The two roles are hard to disentangle. When the fairness issue is viewed in a broad and searching context, some difficult questions arise. Shouldn't society be capable of tolerating diverse individual attitudes toward work and leisure? Would society really want to starve those who might conceivably have lazy genes? Suppose for a moment that incentives are not relevant. If the total input of effort were completely unaffected, would society want the beachcomber to eat less well than his fellow citizens, including others who do not work, such as children, the elderly and students on fellowships?

It is hard to find in this "broad and searching" view any principle that casts serious doubt on Okun's earlier contention that fairness requires greater rewards in return for greater effort (or a greater sacrifice of leisure). Society is likely to be capable of "tolerating diverse individual attitudes toward work and leisure" precisely to the extent that it is not expected to reward them equally. One hesitates to believe that Okun means his remark about "lazy genes" to be taken seriously; but in any case, the world has probably never seen a human being whose genes were so lazy that he chose to starve rather than to make an effort to earn a living. As for Okun's final question, all modern societies—capitalist, socialist, or whatever—do hold that men who possess the capacity and opportunity for productive (or otherwise useful) work yet refuse to perform it have no moral claim upon the society's resources. And he has offered no argument that would establish such a claim independently of work or effort.

Despite all the attention he gives to society's distribution of income and wealth, Rawls has almost nothing to say about the human effort that produces them. At one point, however, he puts forth a somewhat more refined version of Okun's "lazy genes" argument:

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". . . [I]t seems clear that the effort a person is willing to make is influenced by his natural abilities and skills and the alternatives open to him. The better endowed are more likely, other things equal, to strive conscientiously, and there seems to be no way to discount for their greater good fortune." Consider the consequences of this claim that the willingness to make a greater effort is as undeserved as greater natural ability. For it would imply that greater effort, like greater natural ability, has no moral claim to greater reward; instead, according to the ethics of redress, lesser effort, like lesser natural ability, is entitled to be compensated (or, in effect, rewarded). Thus the person who works harder is entitled to nothing more, while the person who works less hard gains a greater claim over what others have produced. The moral absurdity of this view is transparent.

Rawls is able to deny the moral connection between effort and material rewards only *by ignoring the fact that income and wealth are not simply "there" to be distributed, but are produced in the first place only by human effort.* Labor or effort is the human cost of material benefits. And, all other things being equal, it is clearly unfair to distribute equal benefits to those who have borne unequal costs. So even a community that decided to apply the principle of redress in regard to unequal natural abilities would justly insist that equal rewards be allotted only on the basis of equal efforts. (In Okun's words, "If everyone were offered the same hourly wage rate and the opportunity to work as many hours as he or she chose, the resulting discrepancies on payday would be understandable. In fact, it would seem unfair for the person who takes more leisure to get just as much income.") And if such a community (whether a commune, or a kibbutz, or a political society, or persons in Rawls' "original position") determined to share its material benefits in common, it would undoubtedly require that its members also assume a fair share of the common labor.

Natural ability

Neither Okun nor Rawls, then, succeeds in discrediting the proposition that those who are more productive because they make greater efforts deserve, all other things being equal, to enjoy greater material rewards. But now we must consider the claim of those who are more productive because they are blessed with greater natural ability. Let us take the case of two men living in what economists refer to as a "Robinson Crusoe economy" (and philosophers have

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called a "state of nature"). Now suppose that each of these men expends equal efforts in constructing a dwelling for himself; but due to their differing natural abilities as builders, one produces —and thus is able to live in—quite a comfortable habitation, while the other produces an adequate but less desirable shelter.[3] In such a case, wealth would be unequally "distributed" (by nature itself) according to "undeserved" differences in natural ability. Here is a clear instance of what Rawls means by the "arbitrariness found in nature." But what possible moral justification could there be for redressing this natural distribution, or holding that the less talented man is entitled to a share of the rewards earned by the more talented? And if such a justification does not exist in a "Robinson Crusoe economy," at what point of increased complexity in men's economic, social, or political relations does it suddenly become valid?

Rawls never answers this question with any precision; but by basing his doctrine on a version of the social-contract theory (an agreement that "free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association"), he implies that the crucial change comes about when men enter political society. The agreement that underlies a just political society, according to Rawls, will include adherence to the "difference principle," which as he formulates it specifies that "social and economic inequalities are to be arranged so that they are to the greatest benefit of the least advantaged . . ."

Now, Rawls says of the difference principle that it "represents, in effect, an agreement to regard the distribution of natural talents as a common asset and to share in the benefits of this distribution whatever it turns out to be." This "collectivization" of individual natural talents is obviously of material advantage to the less talented, but how can it be considered fair to the more talented? Rawls' answer essentially boils down to repeating his assertion that the more talented do not deserve their greater natural gifts in the first place;

[3] This example is, of course, intentionally constructed in such a way that the man with lesser natural ability is not incapable of providing for his needs in a minimally acceptable fashion. *This fits Rawls' argument for redistribution*, which is based not on need but simply on inequality. If there were a case of genuine neediness—for example, if there were a third man in the neighborhood who was crippled and unable to build a dwelling for himself at all—it might be argued that the others would have a moral obligation to assist him. In that case, the individual's right to the fruits of his own labor would have to be balanced against his obligation to others. But this would in no way invalidate the general principle that the rewards that flow from superior natural ability are deserved.

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hence they have no cause for complaint. But why do these undeserved natural talents, whose consequences are unobjectionable in a state of nature, require rectification or redress in political society? The closest thing one finds to an answer to this question is the following passage:

> But there is no necessity for men to resign themselves to these contingencies [i.e., the arbitrary distribution of natural talents]. The social system is not an unchangeable order beyond human control but a pattern of human action. In justice as fairness men agree to share one another's fate. In designing institutions they undertake to avail themselves of the accidents of nature and social circumstance only when doing so is for the common benefit.

What Rawls seems to be saying here is that in political society men are not bound by the arbitrary dispensations of nature precisely because they have the power to alter them, or at least their effects. Men can collectively design the institutions and implement the conception of fairness that *they* choose. And that conception of fairness need not be based on a consideration of men as nature has actually made them; instead, it can and should be based on a consideration of men that abstracts from the differences that nature has established among them. Social justice cannot take its guidance from human nature. It must improve upon and correct nature, by taking a moral starting point which is above or prior to the arbitrariness of the real world.

Is it possible, however, for human justice ever to attain a starting point that is totally free of the arbitrariness of the world? Rawls himself is forced to confront this problem when he poses the question whether our conduct toward animals should be governed by his principles of justice. (For after all, is it not merely a contingent fact of nature that we are born human beings rather than members of some other species?) Rawls' answer is that human beings, as opposed to other living things, are entitled to equal justice because they possess the "capacity for moral personality." Having or not having this capacity is said to be the "only *contingency* which is decisive" in determining who is entitled to just treatment. Moreover, the common possession of this capacity by all men constitutes the basis of human equality, which thus is "supported by the general *facts of nature*." At the deepest level of his own theory, then, Rawls in effect concedes the impossibility of wholly pushing beyond the limits imposed by brute natural facts. For the underlying human egalitarianism of Rawls' doctrine cannot itself escape being founded on what is arbitrary and contingent.

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Equality vs. the family

We may say, then, that Rawls takes as the Archimedean point of moral reasoning that arbitrary natural fact which makes human beings equal to one another and superior to other living things; but he then arbitrarily refuses to grant any moral status to those arbitrary natural facts that distinguish one human being from another. Yet Rawls and his fellow redistributionists fail even to draw the radical conclusions that their own premises imply. One good example of where a rigorous application of these premises leads is provided by the Greek comic poet Aristophanes in his *Assembly of Women* (*Ecclesiazusae*). This play tells the story of the takeover of Athens by a female government, which establishes a new egalitarian order featuring a community of property, women, and children. But when it is objected that such a scheme will lead all the men to line up before the beautiful women and neglect the others, Praxagora, the female lawgiver, responds with a decree requiring that a man sleep with an ugly woman before being permitted to sleep with a beautiful one. This decree is an almost perfect embodiment of Rawls' difference principle, inasmuch as it stipulates that the naturally favored women may benefit only when their doing so benefits the disadvantaged as well.[4]

This Aristophanean conceit raises the question of why Rawls does not extend the application of the difference principle to the distribu-

[4] There is at least one other discussion in Ancient literature of the application of the ethics of redress to sexual matters. In Book I of the *Histories*, Herodotus describes an "ingenious" custom of the Babylonians:

> In every village once a year all the girls of marriageable age used to be collected together in one place, while the men stood round them in a circle; an auctioneer then called each one in turn to stand up and offered her for sale, beginning with the best-looking and going on to the second best as soon as the first had been sold for a good price. Marriage was the object of the transaction. The rich men who wanted wives bid against each other for the prettiest girls, while the humbler folk, who had no use for good looks in a wife, were actually paid to take the ugly ones, for when the auctioneer had got through all the pretty girls he would call upon the plainest, or even perhaps a crippled one, to stand up, and then ask who was willing to take the least money to marry her—and she was knocked down to whoever accepted the smallest sum. The money came from the sale of the beauties, who in this way provided dowries for their ugly or misshapen sisters.

With its emphasis on monetary compensation, this scheme is much more in the spirit of Rawls' own thinking. Moreover, the notion of monetary compensation for natural disadvantages suggests a whole new avenue for applying the ethics of redress. Those who are born blind, or crippled, or mentally impaired might be made the beneficiaries not merely of programs designed to meet their special needs but of monetary grants to indemnify them for the psychic pain caused by their undeserved misfortune. Society would then be organized as a kind of insurance scheme against Divine malpractice—an arrangement that would appear a logical outgrowth of Rawls' principles.

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tion of sexual rewards. If the distribution of natural gifts is to be regarded as a "common asset" whose benefits are to be shared by all, why should those human beings who are beautiful or otherwise well endowed be allowed to enjoy the "undeserved" sexual benefits that flow from those qualities arbitrarily allotted to them by nature? And why shouldn't those who have the misfortune to be born ugly be compensated according to the dictates of the "ethics of redress"?

And what about children, the products of sexual union? In a society composed of families, there are some couples that very much desire to have children but are unable to have any, while other couples enjoy an abundance of children. Why aren't the "undeservedly" childless couples entitled to be compensated for their arbitrary misfortune by being given some of the children of the more prolific? Again, why not go further still? Because of genetic inheritance, parents with greater natural advantages tend also to have children with greater natural gifts, and thereby to enjoy the greater satisfaction that more talented children often bring. Why not, then, distribute children in such a way as to eliminate the impact of this "undeserved" benefit? But even an impartial distribution of children among all sets of parents would leave those children who were placed in "better" homes undeservedly and unfairly favored over those who were placed in "worse" homes. Only the abolition of the family as an institution for raising children would appear capable of meeting the Rawlsian standard of fairness.

At one point in *A Theory of Justice*, after noting that "the family will lead to unequal chances between individuals," Rawls explicitly poses the question, "Is the family to be abolished then?" His answer: "Taken by itself and given a certain primacy, the idea of equal opportunity inclines in this direction. But within the context of the theory of justice as a whole, there is much less urgency to take this course."[5] And of course Rawls chooses not to take this course. Like his fellow redistributionists, he does not seem to be disturbed by "undeserved" inequalities in the sphere of marriage and the family except insofar as these are productive of inequalities of income and wealth. And even where such inequalities of income and wealth do result, the Rawlsian strategy is not to attempt to eliminate their causes but rather to attempt to mitigate their effects (through redistribution). The hallmark of the radical rejection of inequality

[5] There is also a rather cryptic passage in *A Theory of Justice* in which Rawls indicates that the difference principle would call for an active eugenics policy. Since the implications of this passage are so unclear, it is difficult to tell to what extent the eugenics policy Rawls has in mind would lead to social regulation of marriage and childbearing.

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since Aristophanes has been the call for a community of property, women, and children. But despite the radical egalitarianism of their ethical premises, our present-day redistributionists want no part of communism. Not only are they perfectly content to leave the "bourgeois" family intact, but they even shrink from advocating a community of property. Indeed, even their call for redistribution falls far short of a demand for equality of income or wealth.

Equality vs. wealth

Why are our redistributionists so "moderate" with respect to their agenda for egalitarian political reform? The answer is to be found by investigating the principle that they accept as permitting (or requiring) a justifiable limitation on redistribution toward complete equality. In Okun's case, the opposing principle is clearly stated in the very title of his book—*Equality and Efficiency: The Big Tradeoff*. It is for the sake of economic efficiency that Okun is willing to stop far short of attempting to achieve complete economic equality. But why should we be so concerned about economic efficiency? Okun explains the justification for making this "tradeoff" as follows: "In pursuing such a goal [i.e., complete economic equality], society would forego any opportunity to use material rewards as incentives to production. And that would lead to inefficiencies that would be harmful to the welfare of the majority. Any insistence on carving the pie into equal slices would shrink the size of the pie." Thus economic efficiency is to be valued because it increases "the welfare of the majority." And welfare is to be measured, it appears, in strictly economic terms—a larger slice (in absolute terms) of "economic pie" constitutes greater welfare.

In fact, then, Okun's "big tradeoff" is really an exchange between equality and *wealth*. The pursuit of economic equality is to be compromised or abandoned when it would lead to unacceptable reductions in most people's wealth. But as Okun presents it, there is a strange imbalance between the two sides of his tradeoff equation. Equality is presented as an ethical principle, while efficiency (or wealth) is treated merely as a practical or pragmatic consideration. It is a curious sort of moral reasoning that allows practical considerations to be weighed equally in the balance with ethical ones. We would hardly approve of the conduct of an individual who was just only when acting justly was compatible with preserving his wealth. Why should we be any more approving of a society that acts in this way?

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Here again we can find a more sophisticated justification of Okun's essential position by turning to Rawls. The grounds on which Rawls legitimizes stopping well short of complete economic equality are internalized in his "difference principle" (which forms part of his second principle of justice). As noted earlier, the difference principle requires that "social and economic inequalities are to be arranged so that they are to the greatest benefit of the least advantaged." What Rawls means by this is that departures from the standard of equal distribution of economic goods are permissible only if they make the least advantaged (i.e., poorest) man wealthier than he would be if the distribution were made more equal. The way an unequal distribution can achieve this result is by offering incentives that promote productivity and thereby increase the size of the society's total economic product. So for Rawls, as for Okun, economic justice ultimately comes down to a tradeoff between equality and wealth (though Rawls makes the focal point of the tradeoff the least advantaged members of the society rather than the majority or the society as a whole).

In the structure of Rawls' theory, the goal of maximizing individual wealth is actually prior to the goal of equality. For Rawls' principles of justice are conceived of as those principles that would be chosen in a hypothetical "original position" by "free and rational persons concerned to further their own interests." Through the device of a "veil of ignorance," Rawls imposes strict limits on the knowledge available to the parties in the original position, but one thing they do know is that they wish to maximize their share of certain "primary goods," including wealth. So from their very inception, the Rawlsian principles of justice have as an essential aim the maximization of individual wealth. (The initial standard of equal distribution, and its subsequent modification to allow those inequalities that improve the economic position of the least advantaged, are supposedly chosen only because no one is allowed to have any indication of what his own position in the distribution will be, and thus no one wants to take a chance on being too badly off in the event that he should happen to come out at the bottom of the income ladder.)

The priority of the goal of maximizing individual wealth over the goal of economic equality is strikingly reflected in the practical consequences yielded by an application of the difference principle. Let us take the example of a society that enforces strict economic equality and where everyone has an income of $5,000. Now let us assume that by allowing some people to earn up to $25,000, we will increase

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productivity and total output to a point where even the poorest members of the society have an income of $6,000. And then suppose that by increasing the maximum allowable income to $1 million, we increase the income of the poorest members of the society to $6,100. Each of these steps *away* from economic equality would be justified by the difference principle. Indeed, that principle would justify the most enormous income inequality if it were to produce merely the tiniest increment in the income of the poorest class. So there can be no doubt that for Rawls (as for Okun) economic equality has only the most subordinate status when weighed against the maximization of wealth.

It is only in this light that one can properly appreciate the extraordinary role played in Rawls' theory of justice by economic incentives. Recall that Rawls absolutely refuses to allow that those who make a greater economic contribution *deserve* greater economic rewards. Yet his difference principle nonetheless affirms that it is *just* to grant them greater economic rewards insofar as these serve as indispensable incentives to increase their contributions in ways that ultimately benefit the disadvantaged. In other words, according to Rawls justice requires that the more productive receive rewards *that they do not deserve.*

This points to the profound inconsistency that besets the redistributionist position in its attempt to embrace simultaneously both radically egalitarian ethical premises *and* economic incentives. To deny that individuals deserve to enjoy the fruits of their efforts and natural abilities is to deny that powerful principle of human justice which holds that each is entitled to what is his own.[6] It is hardly less radical a denial of the right to one's own than would be the taking away from parents of their own children. And as such, it entails the most extreme sort of invasion of the private sphere and the rights of the individual in the name of the public and communal good.

The denial of this principle would be understandable in a doctrine that, aiming at a profound transformation of human nature, sought to erase men's attachments to what is private and to refocus them

[6] It is the right to what is naturally one's own that John Locke, the pre-eminent philosopher of liberalism, holds to be "the great foundation of property": "... [E]very man has a property in his own person; this nobody has any right to but himself. The labor of his body and the work of his hands, we may say, are properly his." This, of course, is precisely what Rawls and Okun deny. They would presumably correct Locke along the following lines: "No man has a property in his own person; this everybody has an equal right to along with himself. The labor of his body and the work of his hands, we may say, are properly the society's as a whole."

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wholly upon the public (whether in the benign manner of the Israeli kibbutz or the barbaric manner of Pol Pot's Cambodia). But this is surely not the kind of thing our redistributionists have in mind. Their devotion to maximizing individual wealth and their consequent championing of economic incentives are inevitably calculated to foster self-interest and attachment to private goods. In this light it is not surprising that Rawls turns out to be almost as great an admirer of economic efficiency and of markets as Okun is. The prevailing spirit of both of their doctrines is profoundly bourgeois and capitalistic. Indeed, one suspects that both their hope and their expectation is that a society structured in accordance with their principles would not be terribly different from the United States as it is today. They want all the benefits that come from a bourgeois liberal democratic order, but merely wish to improve upon it through a kind of egalitarian "fine-tuning" aimed at bringing about a more equal distribution of income and wealth.

Individual rights and liberal society

Yet the moral basis of Rawls' and Okun's economic egalitarianism is incompatible with, and destructive of, the moral basis of a liberal society. The moral and political tradition that animates liberal democracy is founded on the notion that the rights of the individual are prior to the claims of society—indeed, that the protection of those individual rights is the very goal of political society. Liberalism does not merely recognize that principle of justice which holds that each man is entitled to what is his own; it seeks to extend and exalt this principle, imparting to the private sphere a sanctity far greater than it enjoys in any other political doctrine. Liberal society leaves each man free to devote himself to the pursuit of his own happiness; in particular, it promotes the pursuit of economic self-interest. In Locke's phrase, it aims "by established laws of liberty to secure protection and encouragement to the honest industry of mankind . . ." And the bedrock moral premise of a liberal society is that those who devote themselves to "honest industry" are entitled to reap—in the form of private property—the economic rewards that it brings.

By contrast, the redistributionist view, in holding that individuals do not deserve the economic rewards that are the fruit of their own talents and efforts, and that the goods produced by their "honest industry" are instead the "common asset" of society as a whole, totally undermines the moral foundations of private property, and

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therewith of liberal society. And the consequences of such a view are not merely theoretical ones. As Jencks makes clear, the redistributionist position requires that society "politicize the question of income inequality." For if individuals have no moral claim to the private property they obtain, it is up to the government to decide how it should be distributed. Now, it would be one thing if, under the new dispensation, the distribution of income and wealth were to be determined by a benevolent despot applying the "difference principle" and carefully weighing the longer-range benefits that would accrue from varying degrees of economic incentives. But in a democracy, distributional decisions will be the subject of the most intense political controversy, with each citizen in effect casting a vote about how large his own share of the society's income and wealth should be. And since the potentially adverse long-range effects of reducing incentives will necessarily remain speculative, there is likely to be a tendency to cut down the share of the better off first and worry about incentives later.

Moreover, if people really come to believe that no one deserves the income he earns, the case for incentives by itself is bound to look morally suspect, particularly when it is a question of increasing them. To argue that those who are already better off should be granted still greater incentives to make them produce more will then resemble arguing that the rich should be given a wholly undeserved bribe paid out of the pockets of the poor. Under such circumstances, it would not be at all surprising if the poor decided that even if their own incomes were to suffer (from the general loss of productivity), they would prefer this to paying so offensive a bribe. (One cannot extrapolate from the relative self-restraint shown by democratic governments in similar matters today, because that self-restraint is in large part precisely a product of the belief that individuals do deserve what they earn and that taxes are a necessary evil rather than a mechanism for redistribution.) In any case, just the uncertainty about the safety of one's wealth and the prospects of one's future income caused by the politicization of the distributional issue would be bound to have a deleterious effect not only on incentives but also on the general feeling of political and economic security enjoyed by the citizenry. In this sense, at least, the shelter of the private sphere would be severely threatened.

But this is far from being the only danger to the private sphere implicit in the redistributive ethic. Jencks says that in order to have redistribution we must "alter people's basic assumptions about the extent to which they are responsible for their neighbors and their

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neighbors for them." He presumably has in mind here primarily a heightening of people's feelings of mutual solidarity and benevolence. Yet so long as the maximization of people's wealth remains a fundamental goal of the society, it is likely that their feelings of reciprocal responsibility will take a less attractive form. For if the society's wealth is regarded as a common product of which everyone is entitled to a generous share, the economic well-being of each individual becomes directly dependent upon the behavior of his fellow citizens.

In the first place, this is likely to lead to heightened public concern about who is admitted to citizenship. It is one thing for a country to accept unskilled immigrants (say, Vietnamese refugees) when it is essentially up to them to "make it" economically on their own; but it is a very different matter if they are immediately and perpetually entitled to draw upon a sizable share of the society's resources. Similarly, fears about adding to the number of unproductive people in the society could lead to attempts to restrict childbearing on the part of those who are thought incapable of raising children to be useful contributors to the nation's wealth. Moreover, there would be a strong tendency for the public to impose some work requirements upon those living off the common wealth without making what is deemed an adequate contribution of their own efforts. Or there might be an attempt to regulate the ways in which the beneficiaries of redistribution spend their money (designed, for example, to make sure they do not buy luxury items while stinting on the needs of their children). Public money is seldom disbursed without any strings attached, and if everyone comes to be viewed as a recipient of society's benefactions, it is only to be expected that they will be subjected to greater public accountability regarding the details of their private lives. In short, it is difficult to see how the private sphere can retain its autonomy when wealth is regarded as communal. The practice as well as the premise of redistribution would be incompatible with liberal society as we know it.

A final word

By way of conclusion, it is worth re-emphasizing the vital distinction between redistribution and social-welfare programs. Social insurance and assistance to the needy can be regarded as legitimate functions of the public sphere, properly supported by public revenues. The obligation of citizens to pay taxes to finance the legitimate

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expenses of government has never been doubted by the liberal tradition. Financing public-welfare expenditures with tax dollars in no way conflicts with the notion that people have a right to what they earn, and that their own property is genuinely private. But as social programs grow larger and more complex, it is all too easy to make the mistake of regarding redistribution as a logical extension of—or even simply a way of rationalizing—the welfare spending of the liberal state. This is an error to which economists are particularly prone, given their penchant for focusing on economic effects (i.e., how much is being transferred to whom) rather than political principles (i.e., on what grounds the money is being transferred). Yet there is an immense gulf of principle between the welfare state and the redistributive state, which can be crossed only at the gravest peril to a liberal political order.

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The odd evolution of the Voting Rights Act

ABIGAIL M. THERNSTROM

THE Voting Rights Act of 1965 ushered in a revolution. In 1964 James Chaney, Andrew Goodman, and Michael Schwerner were murdered while participating in a voter-registration drive in Neshoba County, Mississippi. In that year less than 7 percent of Mississippi's adult blacks were registered to vote. Within three years black registration approached 60 percent. Ten years after the murders, there were 191 black elected officials in Mississippi alone; prior to the passage of the act, there had been fewer than 100 in the entire South.

The Voting Rights Act was the fourth modern attempt at ensuring the rights of disenfranchised Southern blacks, but the first effective one. The Civil Rights Acts of 1957, 1960, and 1964 had done little more than allow county-by-county injunctions against prejudiced registrars. But such case-by-case adjudication, requiring lengthy litigation in piecemeal fashion, had proven largely ineffective. There were too many recalcitrant registrars, too many indifferent judges, too many uninformed and illiterate blacks. Nor had the heroic efforts of civil rights activists in the early 1960's had much impact. Student Non-violent Coordinating Committee volunteers working in LeFlore County, Mississippi had enlarged the ranks of black voters by only 300. Yet within two months of the initiation of Federal intervention,

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following the passage of the 1965 act, approximately 5,000 blacks were registered in that same county.

Such immediate and massive registration was precisely the purpose of the legislation, but today the simplicity of that aim has been largely forgotten. Success generated a new view of the protection that was afforded blacks and other minorities by the act. And so, as the problem of registration receded, a host of new and startling questions arose. Should a literacy test, even one administered impartially, be considered discriminatory where there has been a history of unequal educational opportunity? Do multimember electoral districts impermissibly dilute the political strength of minorities? Can heavily black cities annex largely white suburbs without violating Federally protected rights? Are constitutional rights infringed when the Justice Department forces a redrawing of district lines in order to achieve maximum minority representation?

Behind these questions lies a radical redefinition of the meaning of political equality for racial and ethnic groups. The traditional concern of civil rights advocates had been access to the ballot. But these questions involve not simply access, but *result*. They assume a Federally guaranteed right to maximum political *effectiveness*. Nowadays local electoral arrangements are expected to conform to Federal executive and judicial guidelines established to maximize the political strength of racial and ethnic minorities, not merely to provide equal electoral opportunity.

From access to results

The Voting Rights Act, then, ushered in a dual revolution: Not only were the names of two million blacks added to the registration rolls, but the definition of enfranchisement changed. The right to vote came to mean the right to equal electoral *result* and maximum political effectiveness.

That no one in 1965 contemplated such a development is indisputable. Equality in the mid-1960's meant equal opportunity, not equal result. Preferential admissions programs were not initiated until the end of the decade. Opportunity in employment did not begin to be measured by the standard of group parity until around 1970. And the use of racial quotas for the purpose of integrating primary and secondary schools was constitutionally sanctioned only in 1971.

In the original Voting Rights Act the emphasis was on equal political opportunity—that is, equal access through securing the ballot. In the Judiciary Committee hearings prior to passage, Attorney

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General Katzenbach described the act as "aimed at getting people registered." "Our concern today," he said, "is to enlarge representative government. It is to solicit the consent of all the governed. It is to increase the number of citizens who can vote."

Katzenbach was convinced that black ballots were the key to Southern recognition of other Federally protected rights. As Deputy Attorney General under Kennedy, he had been part of a concerted effort to push civil-rights leaders into focusing on voting rights. Some had complained that Washington was nudging the movement away from massive social change and on to safe ground. But by 1965 that safe ground was widely regarded as the territory the movement had to conquer first.

If the ballot was the key to other rights, the elimination of the literacy test was the means to the ballot. "No matter from what direction one looks at it," V. O. Key had written in 1949, "the Southern literacy test is a fraud and nothing more." It was no less a fraud in 1965. In the 1960's, Southern registrars were observed testing black applicants on such matters as the number of bubbles in a soap bar, the meaning of obscure passages in state constitutions, and the definition of such terms as "habeas corpus." Booker T. Washington had believed that "brains, property, and character" would "settle the question of civil rights," but 80 years after the founding of Tuskeegee Institute blacks with brains, property, and character in the city of Tuskeegee still found themselves unable to demonstrate their literacy. "If a fella makes a mistake on his questionnaire, I'm not gonna discriminate in his favor just because he's got a Ph.D.," the chairman of the Board of Registrars righteously maintained.

What the Voting Rights Act did, then, was to suspend Southern literacy tests—though indirectly. Without naming any states explicitly, the act inferred a statistical link between low voter registration or turnout, literacy tests, and discrimination. By providing for the automatic suspension of all tests wherever there was inadequate political participation, it circumvented the difficult task of attempting to prove discrimination. No state which had either a registration or turnout of less than 50 percent of the voting-age population in the Presidential election of 1964 could employ *any* test or device to screen potential voters.

While the target of the act was clearly the South, in fact the ban on tests wherever there was low registration or turnout affected as well a smattering of counties in such states as Arizona, Hawaii, and Idaho. But at the discretion of the District Court of the District of Columbia coverage by the act could be waived.

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Judicial discretion had been considered the bane of previous civil-rights bills. Yet the Voting Rights Act did not shift authority from the judiciary to the executive; it augmented the power of both. But the Southern district courts—described by Katzenbach at the hearings as beyond redemption—lost out. For though disputes involving Federal rights are normally taken to a local district court, cases arising under the Voting Rights Act are almost exclusively under the jurisdiction of the District Court of the District of Columbia. And appeals from its decisions go directly to the Supreme Court. It was not a unique arrangement, but Southerners saw it as an insult to Southern justice. "On what basis," Senator Sam Ervin asked, "can you justify saying, 'Close all the courts in the land except one'?"

Justice Hugo Black was among those who saw in the arrangement the ghost of Reconstruction. He was particularly irked by what was called the "preclearance" provision. Section 4 suspended literacy tests and other "devices" in all states and political subdivisions with a voting registration or turnout of less than 50 percent. The preclearance provision—section 5—reinforced section 4 by forbidding in those same jurisdictions the institution of any new "voting qualification or prerequisite to voting" without the approval of the Attorney General or the D.C. court. As Justice Black described it, states were treated like "conquered territories." "I doubt," he said, "that any of the thirteen colonies would have agreed to our Constitution if they had dreamed that the time would come when they would have to go to a United States Attorney General or a District of Columbia court with hat in hand begging for permission to change their laws."

Nevertheless, the motive behind the provision was clear. Southern states were adept at the fine art of circumvention. Banishing literacy tests, it was feared, might not be sufficient. New devices could be created with the same impact as old. Registration could be blocked anew.

The change in section 5

While section 5 was originally regarded as nothing more than a corollary of section 4—the one banning literacy tests and the other making sure that the effect of that ban stuck—in time the provision took on quite a different meaning. It became the instrument by which the definition of enfranchisement was altered. What was a new "standard, practice, or procedure with respect to voting" that had to be precleared to determine that it was not discriminatory? By 1969 procedural changes covered by the act had come to include

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making an office appointive instead of elective, increasing the requirements for an independent to gain a place on the ballot, and, most important, switching from ward to at-large voting. Later decisions added district-line and city-boundary changes. Thus in 1974 the Attorney General determined that a reapportionment plan for Kings County, New York had to be cleared, even though that plan did not in any way constitute an effort to resist the registration of blacks: New York State had a literacy test and King's County was one of three New York counties with voter turnout below 50 percent. But by then the entire notion of anticipating Southern resistance had been long lost, and the provision transformed.

The original conception died largely because Southern resistance was so successfully extinguished. With the passage of the act, the registration of Southern blacks soared. By September 1967 registration in Mississippi had risen from an estimated pre-act figure of around 7 percent of the voting-age population to almost 60 percent. In other states the rise was less spectacular, but still impressive.

In part, Southern resistance to registration never materialized because the act—as originally conceived—was on solid constitutional ground, and the South knew it. The Fifteenth Amendment prohibited the denial of the right to vote on account of race, and Congress had been given the power to enforce that prohibition by appropriate legislation. The Voting Rights Act was an unimpeachable exercise of that undeniable power. More important, registration was difficult to prevent, for the power given both to the Attorney General and to the District Court of the District of Columbia was extraordinary. And so, in a short time section 5 was deprived of its clearest function. Originally intended to forestall devices designed to hinder black registration, it was left without any obvious use.

A new one, however, soon appeared: ensuring electoral effectiveness. In every Southern state black ballots were being counted, yet in many districts they appeared to have little impact. By 1969 that had become the central concern of both the Justice Department and the D.C. District Court.

The end of literacy tests

The emergence of section 5 as a tool for guaranteeing minority groups maximum electoral effectiveness was aided by a district court decision in the important case of *Gaston County v. U.S.* Under section 4 literacy tests had been suspended in all jurisdictions with a voting registration or turnout of less than 50 percent—a suspension

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that could be waived if a test were shown to be nondiscriminatory. In 1968 North Carolina's Gaston County brought suit in the D.C. District Court to procure such a waiver. Six years earlier, the county had replaced its traditional oral test with a written one, and had begun a well-publicized process of reregistering all voters. Announcements blanketed both white and black sections of town. The court did not question the test's impartiality.

The Southern setting, of course, made the test suspect. But though the Voting Rights Act was clearly aimed at the South, it did provide for exemptions, and counties such as Gaston should have qualified. The court, however, turned Gaston's petition down. It found the test discriminatory—not in purpose, but in effect. Gaston County had maintained segregated schools until 1965, and, Judge Skelly Wright argued, unequal educational opportunity had resulted in an unequal ability to pass the test. Thus the test penalized blacks for inadequacies imposed by the state.

Although Judge Wright spoke of North Carolina's history of segregation, in fact his logic could be applied to most Northern cities as well. There was no such thing as a racially blind literacy test, Judge Wright effectively ruled. It was a variation on the theme that has since become so familiar: When opportunities have not been equal, meritocratic systems don't work. Gaston had been attempting to administer a test of merit in the context of unequal educational opportunity.

It was a plausible but troubling argument. The Voting Rights Act had assumed that there was a difference between a region that used a literacy test to oppress a racial minority and one that exercised its traditional authority to set standards for voting. It assumed that while race could not be made a qualification, competency could. Judge Wright's reasoning, however, blurred that distinction—or at least dismissed it as worthless in the setting of Gaston.

Judge Wright's opinion had an effect far beyond Gaston County. The interpretation the courts have given to the Voting Rights Act has affected Congressional perception of the act as well. Judge Wright's decision strengthened the hands of those in Congress who favored the abolition of *all* literacy tests. Enlisting Wright's argument, they succeeded in 1970 in amending the act to provide for a nationwide suspension of all literacy tests for a five-year period. In 1975 that suspension was converted to a permanent ban.

Judge Wright's opinion also promoted the cause of those who argued that through the intervention of Federal power the process of political change could be greatly accelerated. The framers of the

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original Voting Rights Act had assumed that a massive registration of blacks would eventually result in a radical redistribution of political power. But in Judge Wright's view, judicial intervention could speed up that painstaking process.

That view was challenged by Judge Oliver Gasch. In a concurring opinion Judge Gasch contended that an absence of economic (not educational) opportunity had created black illiteracy.[1] Blacks were disproportionately illiterate because they went to work and not to school. Even the segregated schools, had blacks attended them, would have provided sufficient education to pass the county's very simple test.

Judge Gasch was suggesting (although he did not spell it out) that Federal courts cannot remedy wrongs built into the very structure of society. Unequal education opportunities often result from inequities in the economic structure, but since courts are helpless to affect the latter, they cannot undo the effects of the former. The level of black illiteracy in the end may be the responsibility of the state, but questions of such ultimate responsibility are not—and cannot be—the normal concern of courts.

Yet Judge Wright (and with him Judge Spottswood Robinson) swept that suggestion aside. The registration of blacks, they were convinced, need not await a change in the level of economic opportunity. The process of political change need not be so laborious. While the district court could not directly attack the economic structure, it could lessen the impact of that structure on the political power of minorities. In fact, it was the court's duty to do so. For minorities had the right—as the Supreme Court subsequently agreed—not simply to equal political opportunity, but to equal electoral result.

Disenfranchisement and dilution

The implementation of that right awaited the remaking of section 5. Though Judge Wright's opinion in *Gaston* cleared the way, it was the Supreme Court's 1969 decision in *Allen v. Board of Elections* that definitively altered the meaning of that provision.

The case, which involved several statutory amendments to electoral procedure—the most important of which was a switch from

[1] The opinion reads like a dissent, but was actually a concurrence. Gasch agreed with the result reached by the court, but on entirely different grounds. The county, he said, had failed to meet the required burden of proof—a demonstration that every election within its boundaries had been conducted in a nondiscriminatory manner.

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single-member district to at-large voting in the election of Mississippi county supervisors—opened the way for the Court to rule on the scope of section 5. Were the amendments "practices or procedures" that violated the provision? Did they need to be cleared by either the District of Columbia court or the Attorney General? The Court held that, because the changes had the potential of *diluting* the black vote, they were subject to review. "The Voting Rights Act," Chief Justice Warren asserted, "was aimed at the subtle as well as the obvious state regulations which have the effect of denying citizens their right to vote because of race."

This was a cumbersome rewording of Justice Frankfurter's 1939 observation that the Fifteenth Amendment "nullifies sophisticated as well as simple-minded modes of discrimination." The Voting Rights Act, and the constitutional amendment upon which it rested, clearly barred subtle as well as obvious disenfranchisement. But what constituted disenfranchisement? That was the difficult issue.

The question of the impact of at-large voting is particularly complex. Multimember districts, it is generally argued, benefit the strong against the weak. The party of the majority is able to capture all contested seats. As a result, it is said, political groups are not represented in proportion to their strength in the voting population, and minorities lose out. But in fact multimember voting does not *always* disadvantage a minority—an at-large arrangement, in which every single vote counts, may actually benefit blacks. Single-member wards often permit a white majority to ignore a black enclave. But in an at-large system whites may be forced to compete for black votes.

Equally important, disadvantage and disenfranchisement are not the same. Multimember systems may disadvantage blacks, but they do not disenfranchise them. There is no electoral system that ensures representation precisely in proportion to the potential strength of every group. Every districting system discriminates. The drawing of district lines—whether ward or multimember—has an inevitable impact upon the effective power of various political groups. Some groups are split; others find themselves concentrated to the point of greatly diminished returns; candidates of equal quality are not equally available in all wards; district lines often separate a candidate from his natural constituency; and so on. No district with a population greater than one can be created that will guarantee to each voter equally effective political power.

In fact, not only the task of drawing district lines, but even the political process itself discriminates. Formal and informal aspects of

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government disadvantage some groups and advantage others. Neither campaign funds nor political talent are evenly distributed. A multitude of political decisions made before and after elections affect power. Political alliances make and break programs. How can political weight be judicially distributed so that every vote has equal value?

That dilution is not the same thing as disenfranchisement was acknowledged by Chief Justice Warren in *Allen*. "The right to vote," he said, "can be *affected* by a *dilution* of voting power as well as by an absolute prohibition on casting a ballot" (emphasis mine). Warren carefully distinguished diluting from denying, but he neglected to point out that the Fifteenth Amendment—on which the Voting Rights Act was based and to which the case thus ultimately referred—only protects against denials.

There is one circumstance in which dilution does shade into denial, and it is this circumstance that Chief Justice Warren must have had in mind, for he went on to say: "Voters who are members of a racial minority might well be in a majority in one district, but in a decided minority in the county as a whole. This type of change [at-large voting] could therefore nullify their ability to elect the candidate of their choice just as would prohibiting some of them from voting." A racial minority, in other words, *can* find itself permanently locked out, if one assumes (as evidently Warren did) consistent and persistent racial bloc voting. But, in general, to disadvantage a political minority is not to disenfranchise it. Most political losers can imagine a context structured more to their benefit, yet few would argue that they possess either a statutory or a constitutional right to an optimal political environment. But when politics and race become thoroughly entwined—when political identity is inextricably linked with racial identity—then such a claim becomes enticing.

In situations which are politically fluid, disadvantaged voters are not considered disenfranchised. Democrats in a Republican community, for example, are free to join the Republican Party and bore from within. Candidates can choose to emphasize certain issues at the expense of others in an effort to win votes. But in a situation of true racial bloc voting, there is no vying for votes across racial lines. Between two candidates of different races, there is no contest at all. Campaigning is unnecessary; a racial count will do. Color becomes the sole determinant of political effectiveness.

Such a situation must be distinguished from one in which black, white, and other citizens belong to political interest groups that

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cross racial lines. Race and politics are not necessarily coterminous. While at-large voting usually works to the disadvantage of a political minority, it does not always nullify the ability of blacks to elect candidates of their choice.

The crucial distinction is blurred by Chief Justice Warren's opinion in *Allen*. He begins by speaking about the necessity to guard against the dilution effect of at-large voting. Voting, it is asserted, includes "all activities necessary to make a vote effective." But the racial disenfranchisement he clearly had in mind had nothing to do with an imbalance in political effectiveness. The reference to a "candidate of their choice" makes clear the Chief Justice's perspective: He is envisioning color-coordinated politics—the color of the candidate unfailingly matching the color of his constituency. And he is asserting the right of a minority racial bloc to equal access to the political process.

Allen set the tone for all future Voting Rights Act litigation. It permanently blurred the distinction between disenfranchisement and dilution, and between equality of political opportunity and equality of electoral result.

A change of focus

The impact of the decision was not confined to the courts. It had an immediate effect on Justice Department policy as well. The voting section of the Civil Rights Division is primarily responsible for enforcing the Voting Rights Act. Most disputes concerning section 5 are settled by negotiation between local and Federal attorneys; suits are brought in the District Court of the District of Columbia only as a last resort.

In the years between the passage of the act in 1965 and the *Allen* decision in 1969, the focus of Justice Department attorneys was on section 4. The aim was to get Southern blacks registered. But the Justice Department conceived of its role as exceedingly limited—a conception born, in part, of necessity: The Civil Rights Division had a staff of approximately 40 to handle all litigation involving the infringement of civil rights in the South. Yet ideology also restrained the Department. Both Robert Kennedy and Ramsey Clark preferred negotiation to confrontation. They believed in working behind the scenes, in securing compliance through persuasion.

Ironically, it was under Nixon that Justice Department policy radically altered. Beginning in 1969, the Voting Rights Act, and particularly section 5, was enforced with unprecedented aggressive-

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ness. In part, the new militance was the unforeseen consequence of bureaucratic reorganization. Beginning in 1969, attorneys were no longer assigned to a geographical region, but instead to such legal specialties as housing, education, or public accommodations. A voting section was thus created and a cadre of attorneys devoted to the enforcement of the Voting Rights Act emerged. The new specialists had a vested interest in interpreting the act as broadly as possible.

Thus the decision in *Allen* legitimized policies to which this new cadre of attorneys was already committed. The voting section had been at odds with Attorney General Mitchell over the scope of section 5. Mitchell had argued in the 1969 hearings on the extension of the act that section 5 should not be read to cover either redistricting or annexations. He lost both in the courts and Congress. *Allen* was the turning point. Within seven days of the decision, the voting section began to enforce a refurbished section 5. It began to send instructional packets to legal officers in the covered jurisdictions, informing them of the necessity to clear every change in voting procedure with either the Attorney General or the District Court of the District of Columbia. And whereas only 323 voting changes had been received for preclearance by the Department in the years between 1965 and 1969, almost 5,000 were submitted between 1969 and 1975.

The interpretation which the Supreme Court had given to section 5 in *Allen* was not created out of whole cloth. From one perspective, Chief Justice Warren in *Allen* was simply reading into a statute resting on the Fifteenth Amendment those standards for equally effective political participation that had been developed in the Fourteenth Amendment one-man, one-vote cases. *Baker v. Carr*, for example, had established in 1962 a constitutional right to equal representation for equal numbers.

But "rotten boroughs" are not strictly analogous to multimember districts, nor was the principle enunciated in *Allen* a necessary extension of that established in the legislative reapportionment decisions. Those decisions focused on individual voter weight, and measured that weight solely by the standard of equal district populations. Their concern was the malapportionment of *individuals,* not the malrepresentation of *interests.* In contrast, *Allen* and subsequent Voting Rights Act decisions establish the necessity for equality among groups—specifically among racial and (more recently) ethnic groups. Today, the test of disenfranchisement is not whether one person's vote is worth more than another's, but whether the group to which that person belongs is "underrepresented" in

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the system. Group power, not individual worth, is made the measure of political equity.

Quite a different conception was initially built into the Voting Rights Act. Sponsors of the original legislation assumed that once blacks had access to the ballot, their position in the polity would be normalized. They would be citizens in that most elementary sense of the word, possessing the right to lend a voice to the political process. Those sponsors assumed that, in time, an end to discrimination would bring an end to racial bloc voting. Color-blind politics was the ultimate goal: the true integration of Southern blacks in a color-blind electoral process.

But the Court's redefinition of section 5 marks an abandonment of those hopes. It envisions blacks as a permanent group apart. It assumes that there is no escape from race. It acquiesces in separate politics for separate racial and ethnic groups, demanding only that between those groups there should be rough equality. Hence the necessity to be on constant alert for threats to black political power —the necessity to make sure that blacks have more than the right to go to the polls, to make sure that the vote they cast there will have maximum weight.

Perhaps color-blind politics in this color-conscious society was a naive hope, and political access too restricted a goal. Racial bloc voting may be the reality for some time to come, and ward politics may indeed make the most sense for most minorities in most communities. Yet incorporating this depressing political assumption into the Voting Rights Act is costly, for it produces a society in which political interests are defined by racial or ethnic identity and representation is guaranteed in proportion to groups' numerical strength. For when a perceived reduction in the potential power of a racial or ethnic group is called disenfranchisement, then proportional racial representation inevitably becomes the standard by which proper political effectiveness is measured. And although the Supreme Court has had an occasional second thought (not shared by either the D.C. District Court or the Justice Department), this is the basic standard that has applied since *Allen*. Moreover, it has been extended from blacks to a variety of other ethnic groups as well, for in the last few years both the ethnic and geographic scope of the act have been enormously expanded.

Whether we want a society in which citizens are assigned slots on the basis of their race or ethnicity is, of course, precisely the question that the *Bakke* case has since raised with reference to higher education. And it has been the issue in a series of constitutional

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cases dealing with the problem of desegregation at the elementary and secondary school level. Whether either preferential admissions or pupil assignment in the interest of racial balance makes much sense is far from settled. But whatever the outcome of that debate, it is not likely to settle the question of proportional racial representation in politics, for none of the reasons customarily given for the use of racial and ethnic quotas in education apply to the realm of voting.

Proportionality, race, and party

In 1971, with the Supreme Court's decision in *Swann*, racial quotas became a permissible tool with which to dismantle a dual school system. Two assumptions lay behind the Court's ruling: that had there not been a history of *de jure* segregation, schools in the North Carolina district of Charlotte-Mecklenburg would have been racially mixed; and that racially neutral pupil assignment had become inadequate to the task of creating that previously impeded mix. The law of inertia, it was believed, governed segregation, and once set in motion could be checked only by determined interference in the form of racially conscious action. Racial quotas, then, were a permissible means of achieving the racial mix that would have occurred had there been no policy of deliberate segregation, although they were forbidden as an end in themselves. The use of quotas or goals in preferential-admissions programs is supported by a different logic. The motivation in such cases is not to provide an adequate remedy for constitutional wrongs, but to furnish compensation for educational deficiencies produced by centuries of discrimination, public and private.

Neither of those justifications applies to voting. The problem for the Southern black was not a dual system, as in schools, but no access at all. Blacks were not politically "segregated"; they were excluded. The ballot was their immediate and obvious need. In the absence of disenfranchisement, would the racial mix in politics have been statistically "balanced"? Can quotas be justified as part of an effort to create artificially that mix which would have evolved naturally under more auspicious circumstances? In the schools, perhaps, but not in government. Political offices are not equivalent to seats in a classroom. Groups in our society have never been politically represented in proportion to their size. The Irish have been "overrepresented," Jews were long "underrepresented." Culture and experience—not simply discrimination—have accounted for such dif-

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ferences. Nor does proportional racial representation in voting have anything in common with admissions to desirable educational programs. There is no barrier set to voting, as there is by selective admissions. And one vote has the same value as any other.

Not only is the principle of proportional racial representation difficult to justify; it is impossible to implement. Thus the drawing of district lines to maximize black representation does not guarantee racial proportionality. While racial balance in schools can be attained (more or less) through racially conscious seat assignment, that same balance in politics cannot be achieved by the assignment of citizens to wards.

One case in particular, *Whitcomb v. Chavis* (1971), is often cited as proof that the Supreme Court recognizes the limits of proportional racial and ethnic representation as a standard by which to measure political equity. But *Whitcomb* is a perfect example of the depth of the Court's commitment to a principle it appears to spurn.

The issue in *Whitcomb* was the representation of Indianapolis blacks. The entire county in which the city was located had been reconstituted as one large multimember district. That change, blacks asserted, unconstitutionally diluted the effectiveness of the minority vote. But the Court held that disproportionate racial representation did not alone prove discrimination. Rather, the Court said, blacks had aligned themselves with the wrong political party. They had insisted upon being Democrats in a city in which Republicans most often won. Political choice had distorted the racial and ethnic balance of legislative seats.

The effect of *Whitcomb* was to assign to courts the impossible task of distinguishing those elections which are racially "clean" from those which are "tainted." Except in cases of persistent and obvious racial-bloc voting, how can a court determine the impact of race on elections? How can it know when the racial identity of candidates or voters and not political issues has determined the outcome of an election? The link between race and politics is often close. If the Democratic Party is perceived as the party of blacks, does that perception help or harm the Democratic vote? How can the court find out?

Despite these difficulties the Court insisted that in situations which are racially "tainted," proportional racial representation—in practice, ward voting—is the standard by which to measure electoral equity. Where black political power is reduced by racial hostility, at-large districting impermissibly dilutes the black vote.

The standard of proportionality was thus indirectly reaffirmed

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in a case often cited as evidence to the contrary. By the imposition of ward voting, the District Court of the District of Columbia and the Department of Justice are attempting to accomplish for certain minorities what only a very different political system could truly guarantee. How can the creation of single-member districts solve the problem of blacks or Chicanos who side with a losing party? Even the most careful drawing of ward lines does not guarantee the representation of minorities in proportion to their size. Proportional racial and ethnic representation is a dubious end, and single-member districting an inadequate means.

Territorial annexations

Just how far the courts and the Justice Department are from discarding proportionality or questioning the efficacy of ward voting is demonstrated by three decisions involving territorial annexations. The city of Petersburg, Virginia, like all political subdivisions in that state, is required under section 5 to clear changes in voting procedure with the Federal government. In 1971 it petitioned the Attorney General for approval of an annexation. The pre-annexation population of the city was 56 percent black, 44 percent white. The city's seven-member governing body was elected at-large. Although 7,000 whites and few blacks were added to the city as a result of annexation, blacks and whites alike supported it. Blacks constituted a majority before annexation, and a minority afterwards (47 percent), yet it was generally agreed that the city needed to expand its tax base and enlarge its potential for economic growth. In fact, the annexation ordinance was originally introduced by one of the two black members of the City Council; adoption was unanimous. Nothing about the annexation indicated racial purpose.

After the annexation, a black member of the council presented a proposal to have members of that body elected from single-member districts; it was turned down. At-large voting was traditional in the city, and considered to have some advantages.

Nevertheless, the Justice Department ruled against the city. The reduction in the voting strength of blacks, it said, had a discriminatory effect on voting rights within the meaning of section 5. Congress, it conceded, did not intend for all Southern cities to be prevented from annexing territory. But by maintaining the at-large system in the context of a shift from a black to a white majority, the city wrote into the Petersburg election law "the potential for an adverse and discriminatory voting effect."

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The D.C. District Court concurred. It allowed the annexation, but required Petersburg to adopt a ward system of voting. Although the purpose of the annexation, it said, was not racial, the city had had a long history of racial discrimination. While white numerical domination in the mid-1960's had not prevented the election of black councilmen, nevertheless the races had long been polarized and racial bloc voting was the norm. The City Council had always had a majority of white members and had, the court said, been "generally unresponsive to some of the expressed needs and desires of the black community." It had "on some occasions rejected or failed to adopt programs, employment policies, and appointments recommended by blacks." The fact that few city employees were black gave substance to the charge that it was a city run by whites for whites.

Yet a ward system would provide little relief. If district lines were drawn just right, the number of black representatives might increase. That increased representation would provide greater opportunities for patronage. Blacks might secure those "appointments" to which the decision elusively referred. But as long as racial bloc voting persisted, black councilmen would remain in a minority, and those "programs" to which the decision also alluded would have no greater chance of passing. The assumption that runs through these decisions—that equality at the electoral level will produce equality at the legislative level as well—is unfounded. Rearranging electoral districts to equalize legislative seats, even when successful, will not necessarily produce legislative programs of equal benefit to all. Blacks may gain their statistically equitable proportion of seats without gaining a comparable proportion of legislative benefits.

The courts and the Justice Department seem to believe that ward systems universally benefit minorities, but the blacks in Petersburg might have fared even better with a council elected at large. The city was almost half black. In an at-large system every councilman would have had black constituents. With minimal energy and organization those constituents could have made their presence felt.

Political conditions obviously vary from city to city. And the degree to which single-member districts in any one city will actually benefit a minority is unpredictable. In part, those benefits depend upon the skill with which district lines are drawn. The Department of Justice and the D.C. District Court focus on the dangers of lines drawn to disperse black votes and reduce black power. But the black vote can be diluted, as well, by excessive concentration. Votes can be wasted as well as ignored.

Neither the D.C. court nor the Justice Department, in other

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words, can be certain that one electoral arrangement is superior to the other. And the cost of judicial and executive interference into local electoral arrangements is considerable. When the Federal government intervenes in local electoral arrangements—when it attempts not simply to augment political opportunities but also to shape electoral results—it deprives citizens of their right to achieve through conflict and conciliation those electoral arrangements most suited to their needs.

Decisions such as *Petersburg* have an additional consequence: They create incentives to keep a city ghettoized. Once a ward system is instituted, the geographical dispersion of blacks cuts into black power. How many individuals would actually base a housing decision on such political considerations is, of course, difficult even to speculate about. Nevertheless, courts have often argued that residential segregation is the responsibility of school boards, since decisions establishing school-construction sites mold neighborhoods. It is certainly as plausible that area-based political machines help to shape a city. The courts, by rulings such as *Petersburg*, lend their weight to the cause of those who envision American society as deeply and permanently divided along racial and ethnic lines.

A further difficulty is that the courts and the Justice Department impose ward voting without making clear the precise circumstances which compel their decision. What if blacks had retained a slim majority in post-annexation Petersburg? And when single-member districts are required, where must district lines be drawn? In reviewing reapportionment in New York after the 1970 census, the Justice Department demanded that district lines in the Williamsburg section of Brooklyn be redrawn to give blacks and Puerto Ricans a 65 percent majority: Because the turnout of minority voters was low, the 61 percent given under the proposed reapportionment plan was found wanting. In other words, the Attorney General made the bizarre assumption that if an ethnic group has a history of low voter turnout, it is necesary to draw district lines in such a way as to increase the concentration of that group! Apparently the whole political system had to be adjusted to take account of that transitory social fact. And if minority turnout increased to the point that minority votes were being "wasted," would the system then require further readjustment?

The inevitable confusion over the when and where of district lines has been further compounded by two decisions involving the annexation of a suburban area by the city of Richmond, Virginia. The annexation in *Petersburg* was indisputably motivated by eco-

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nomic considerations. But race lay behind Richmond's decision to incorporate surrounding territory—or at least that is what the District of Columbia court alleged. Judge Skelly Wright said that whites had attempted to sustain waning power through the addition of more white voters.

The Richmond story

Voting in Richmond had been at large. After the annexation the city proposed a ward plan, in hopes of complying with the principle established in *Petersburg*. But a ward plan, the court ruled, cannot save an annexation which is racially motivated, since the Voting Rights Act prohibits the purposeful dilution of the black vote. "To convince a court that such a city . . . has purged itself of a discriminatory purpose," wrote Judge Wright, ". . . it would have to be demonstrated by substantial evidence . . . that the ward plan not only reduced, but also effectively *eliminated* the dilution of black voting power caused by the annexation." (Emphasis mine.)

The only plan which could possibly "eliminate" that "dilution" would be one guaranteeing to blacks the level of power they had previously possessed. The court did not specify, however, whether that level would be the number of seats to which blacks were actually elected, or that which a ward plan without annexation would have given them. But the principle was clear: Annexations which are racially motivated cannot be permitted to dilute the political strength of blacks. Under such circumstances, blacks are entitled to representation not simply in proportion to their present numbers, but in proportion to what those numbers were prior to annexation.

There was a certain logic to preventing a city with a long Jim Crow history from duplicitously shoring up waning white power, if indeed that was what it was doing. But the principle formulated by Judge Wright was unworkable and indefensible. It made annexation conditional upon a fixed balance of power and in effect established a political quota system that guaranteed blacks a permanent right to a certain proportion of the seats in city government. Implementation of the principle was left to a district court in Virginia, one more familiar with Richmond politics.[2]

[2] Ironically, the struggle over annexation took place at the same time that the city was grappling with the problem of school integration. The local district court ordered the consolidation of the Richmond school district with that of two surrounding counties. While one Federal court looked for ways to reduce the effect on black voting power of the addition of more whites, another searched for a method to add more votes for purposes of school integration!

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In fact, Judge Wright had alluded to the option of de-annexation, but by the time the court ruled, the annexation was more than four years old. Moreover, there was some reason to think that blacks actually favored annexation, although Judge Wright conveniently relegated to a footnote evidence of such support. Yet the issue was obviously crucial. Perhaps blacks in Richmond, as in Petersburg, did not regard black numbers as the necessary solution to their economic and political woes. While the court was convinced that the City Council had been unresponsive to black needs and equated that lack of responsiveness with white domination, apparently blacks saw the situation as more complicated.

Undoubtedly, some Richmond whites welcomed the addition of more white voters through annexation, but the motives of even the most racist among them must have been mixed. Annexation made economic, as well as educational, sense. Several months ago, *The New York Times* described the city as beginning to suffer from Northern-style urban pains. "It is becoming blacker, poorer, and older," the *Times* said. The inner-city population has been falling almost 2 percent annually, half the residents are black, the school system has an 80-percent black enrollment, and unemployment exceeds 15 percent in many black sections. The *Times* described the annexation as an effort both to slow white flight and to expand an inadequate tax base. The effort failed; but had it succeeded, the city's new black mayor would be facing far fewer problems. As the situation now stands—and as the mayor has made clear—only the cooperation of the white business elite can prevent further decay.

Not even annexation, then, could preserve the political and economic status quo. Neither the citizens by territorial means, nor the Federal government by judicial ones, could stop the city's demographic, economic, and political change.

The D.C. District Court's decision did not last long. In 1975 it was overturned by the Supreme Court in an opinion which argued that the ward plan already adopted would suffice. Blacks, the Court said, were not entitled to any absolute number of seats, but only to a number proportionate to their current strength.

Adding language to race

The principle of proportional racial representation could have been repudiated by Congress. Richmond provided the perfect opportunity for legislative redefinition of the act. The Supreme Court decision was handed down in June 1975. The act was due to expire

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in August, and hearings on its extension had been underway since late February. But judicial decisions seem to encourage not contraction but expansion of legislative scope. When the Court embellishes the original meaning of a piece of legislation, the new interpretation becomes a tool for those in Congress who favor even greater change. Thus the act's 1975 extension resulted in both a reaffirmation of the principle of proportionality, and the addition of amendments which greatly enlarged the scope of the law. The 1965 act had protected all citizens denied the right to vote on account of race or color. And since it was based on the Fifteenth Amendment, essentially that meant blacks. In 1975 protection was extended to four specifically designated "linguistic minorities": American Indians, Alaskan Natives, Asian-Americans, and citizens of Spanish heritage.

As in the original act, coverage in the 1975 extension was triggered by the existence of a test in areas with a registration or turnout of less than 50 percent. And coverage meant not only suspending those tests, and providing Federal registrars where needed, but the necessity for states and localities to "preclear" all changes in electoral procedure, including annexations and apportionments. Moreover, the definition of a "test" was broadened. Under the 1975 legislation, ballots printed in English were considered a "test" when used in a jurisdiction in which more than 5 percent of the citizens of voting age were members of one of the designated minorities. And the "suspension" of such a test involved the provision of bilingual ballots.

One provision in the 1975 amendments had no counterpart in the 1965 law. Originally the Voting Rights Act covered only those jurisdictions in which a low level of political participation indicated a history of discrimination. But Congress concluded that bilingual ballots were often needed in areas in which voting turnout exceeded 50 percent. The amendments therefore made the provision of those ballots mandatory wherever linguistic minorities with an illiteracy rate higher than the national average resided. Thus a host of counties in California, Colorado, and elsewhere came under partial coverage. They were expected to provide bilingual ballots and other instructional material, but were not subject to other provisions such as preclearance of changes in their electoral laws.

The coverage of these "linguistic" groups compounded the problems already inherent in the act. To the difficulty of guaranteeing maximum electoral effectiveness to blacks was added that of ensuring equal effectiveness to American Indians, Alaskan Natives, and those Asian-American and "Spanish heritage" groups that the Justice Department, in implementing the act, designated as having been

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"effectively excluded from the electoral process." This category includes: Filipinos, Chinese, Japanese, and Koreans; persons of Spanish surname in Arizona, California, Colorado, New Mexico, and Texas; persons whose mother tongue is Spanish in 42 states; and Puerto Ricans in New York, New Jersey, and Pennsylvania.

These were groups without a history of disenfranchisement comparable to that of Southern blacks. No test designed to disenfranchise citizens of a particular race had kept them from the polls in recent decades. But the Department of Justice, implementing Congressional intention, concluded that they had been sufficiently disadvantaged by the absence of bilingual election material so as to warrant Federal protection. A "test" of disproportionate ethnic impact (inability to read English was assumed), when coupled with low voter turnout, became the trigger which entitled this odd assemblage of groups to the political privileges created and protected by the Voting Rights Act.

What can explain the passage of these amendments? And why did they take the form they did? For one thing, the inclusion of "linguistic" minorities quieted the customary Southern opposition. "We feel the same way about this as we do about busing," one Louisiana Representative remarked. "Let them stew in their own juice up there." Two Alabama Congressmen publicly endorsed the bill. But though the taste of revenge was sweet, more important was the simple recognition of political realities: By 1975 a quarter of the voters in the seven Southern states covered by the act were black. The expansion of the act would ensure its renewal and blacks wanted it renewed.

Outside the South, too, opposition was muted. The enthusiasm of the North and West in 1965 and 1970 had cost those regions nothing politically, but the amendments proposed in 1975 affected almost every state. Yet the issues were scarcely debated. This was in part because no legislation was more important to the black community, in part because civil rights in general had become a privileged issue and sheltered from political discourse. And in part it was because by 1975 there had developed a remarkable consensus that group effectiveness was the real measure of political equality.

Republican Representatives M. Caldwell Butler and Charles E. Wiggins proposed amendments that would have released jurisdictions from the provisions of the act when they achieved a high percentage of persons registering or voting. The Butler proposal allowed a political unit to bail out as soon as either registration or turnout reached 60 percent. Wiggins wanted release tied directly to

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the level of black participation. Black turnout would be examined after each Congressional election, and no jurisdiction in which the black vote was over 50 percent would be covered. But both proposals were roundly defeated. The states and counties that fell under the act because of low voter turnout in 1964 were still to be covered after 1975.

The consensus on maintaining supervision over the Southern states went beyond Congress, of course. In the press there was widespread support for the amendments. The view of a *Washington Post* staff writer was characteristic: "Civil-rights lawyers," he wrote, "agree that the law is tough but say that is its beauty—that blacks are protected from sophisticated techniques like racial gerrymanders of election districts that can rob them of voting power just as surely as a gang of klansmen hanging around a voting booth." The equation between terrorism and redistricting did not seem to raise any eyebrows.

The consensus on the need to protect political effectiveness—and the sanctity which enveloped the act—gave a very free hand to the House Subcommittee on Constitutional and Civil Rights, where the amendments were drafted. And it was a committee ready and willing to use that freedom—ready to demonstrate, as New York Representative Herman Badillo put it, that the spirit of the 1960's was not dead.

To help Badillo demonstrate the vitality of that spirit were Chairman Don Edwards of California and Congressman Robert Drinan of Massachusetts. Off the committee, but equally involved, were Texas Congresswoman Barbara Jordan and California Representative Edward Roybal. It was a powerful group, ably supported by a skilled and committed staff, and it was likely to get what it wanted.

The Mexican connection

At the outset what it wanted was quite limited. Initially, the intention was to extend the act to cover Mexican-Americans in southwest Texas, affording them all the protections of the act, including section 5 on preclearance of changes in electoral procedure. The practice of the Justice Department in implementing the act had been to treat Indians, Puerto Ricans, and Mexican-Americans as racial groups, with the result that Mexican-Americans in states that required literacy tests were covered. But Texas had had no such test in 1964, and was therefore exempt from the provisions of the entire act!

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Yet even without the barrier of a test, the Mexican-American registration rate in Texas was low. Precisely how low was difficult to tell, for the figures are distorted not only by the inclusion of aliens, but by the problem of age structure. (The percentage of Mexican-American citizens below the voting age is much greater than that of old-stock whites.) Nevertheless, it was estimated that the registration rate was approximately 46 percent. In the 1972 elections, 38 percent voted. Witnesses pointed out that Mexican-Americans comprised 10.7 percent of the elected officials in Texas, but 18 percent of the population.

These Mexican-Americans, however, could not be covered easily. The 1965 act had been based on the Fifteenth Amendment. It protected against denial of the right to vote on account of race or color. While in the view of the Justice Department, Mexican-Americans constituted a separate race, in the view of Herman Badillo (among others) they did not. In 1965 Attorney General Katzenbach had suggested that since every person had a race or color, everybody would be covered. But fortunately that view was not widely accepted. In the 1975 hearings, the Department of Justice, with mock-scientific accuracy, testified that in 1921 the population of Mexico had been 10.3 percent white, 29.2 percent Indian, and 60.5 percent mestizo, that the present breakdown was roughly the same, and since the vast majority of Mexicans were either part Indian or part black, Mexican-Americans could be said to be racially distinct. But the fact remained that the Census Bureau considered the Mexican-Americans to be white, and that Herman Badillo and others still considered it a mark of opprobrium to be classified as non-white. In the end, therefore, the arguments of the Justice Department fell on deaf ears. In any case, officially designating Mexican-Americans as a race would not have resulted in their coverage, but would merely have eliminated any need to refer to a "linguistic" minority. Actual coverage required a new trigger—one which did not depend upon the presence of a literacy test.

A dual solution was forged. The issue of race was dodged, and the base of the act was broadened to include the Fourteenth Amendment, as well as the Fifteenth. Including reference to the Fourteenth Amendment—with its equal protection clause—allowed the coverage of groups disenfranchised by reason of their national origin. At the same time, the meaning of the term "test" was expanded to include the use of English-only electoral materials, thus extending coverage to states without traditional literacy tests. This solution not only obviated the problem of defining race, but by retaining the link be-

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tween a "test" and low voter turnout—the latter being an indicator of the discriminatory effect of the former—it avoided a return to the pre-1965 need to examine the intentions or actions of individual registrars.

But if some problems were avoided, others were created. A ballot in English is not the same as a literacy test designed to disenfranchise citizens of one race. English-only electoral materials do not discriminate against a racial or ethnic group as such.

There are practical problems as well. How is one to identify accurately citizens who are illiterate in English but literate in some other language, and therefore need foreign-language ballots? Attorneys in the voting section of the Justice Department use the Census Bureau's mother-tongue data, which tell the language spoken in the household in which the person grew up. But for the purpose of identifying those who are illiterate in English, the data are quite unreliable. Based on only a 15 percent sample, and including aliens as well as citizens, it assumes (contrary to fact) that second and third generation immigrants know only the language of their parents. Information on usual language spoken would be much more reliable, and indeed since 1975 the Census Bureau has been able to provide such information. But it would be *politically* much less useful. The 1970 census lists 43 million Americans as having a foreign mother tongue. Yet quite a different picture emerges when one looks at the figures for usual language. By that measure, only 1.1 million persons of Spanish heritage know only Spanish. Another 2.9 million are bilingual, but consider English their second language. Only 2.2 million describe themselves as having "difficulty in English." The total unreliability of the mother-tongue data is indicated by one more startling figure: Only 17 million Americans list themselves as competent in a foreign language—and that figure includes those who learned that language in school, as well as aliens!

The most serious problem, however, was not the inclusion of a significant number of individuals who were perfectly fluent in English, but the inclusion of groups who made no claim of discrimination. Ethnic identity, linguistic inability, and disenfranchisement were equated. Yet no one believed that any European group was actually the victim of discrimination. The assertion that English-only electoral materials by themselves so discriminated against certain groups as to warrant the extraordinary protection of the Voting Rights Act was nothing but a convenient pretense. No one wanted any special protection for recent Italian immigrants, for example, even though the number of Italians who do not list English as their

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usual language is only slightly smaller than that of Asians—593,000 Asians in 1975, compared with 447,000 Italians.

The solution arrived at was unprecedented and extraordinary: *Congress simply designated four groups as deserving, and excluded all others.* The 1965 legislation protects *all* citizens denied the right to vote on account of race or color. But the 1975 protection against disenfranchisement on the basis of language extends to *certain* citizens only: Alaskan Natives, American Indians, Asian-Americans, and those of Spanish heritage.

If four groups could be so designated, why not one group? The original focus of concern was the Mexican-Americans in Texas. Why such a broad-gauged, roundabout, and problematic solution to such a geographically and ethnically confined problem?

In part, political considerations dictated the coverage of groups other than Mexican-Americans. It was difficult to stop once the line from black to brown was crossed, and there was pressure to include other groups. But equally important were the constitutional problems inherent in simply designating one group to be covered but not enunciating some larger principle. Equal protection demands that in conferring legislative benefits upon only certain persons, great care be taken to demonstrate the relationship between remedies and wrongs. The selection of one group for preferential treatment is constitutionally suspect unless that treatment is related to actual deprivation and perceived social needs. That is why the 1965 legislation did not name blacks specifically, but referred to citizens denied the right to vote on account of race, and why, with regard to the Mexican-Americans, the formulation of some wider principle was necessary. Once that larger principle of linguistic disenfranchisement was established, however, other groups seemed logically to qualify.

Yet the logic was strained. Consider Asian-Americans: No evidence was offered at the hearings as to their political oppression, and such evidence would have been hard to come by. Japanese-Americans are among the most successful of all American ethnic groups. They suffer no discrimination at the polls. Nor do Chinese, Koreans, or Filipinos. Census information for the Japanese and Chinese is illuminating. Less than 15 percent of white Americans of native parentage were college graduates in 1970. For second-generation Chinese-Americans the figure was 27.4 percent, and for second generation Japanese-Americans 18.6 percent. Median family income of second-generation Chinese-Americans was 29 percent higher than that of old-stock whites. The figure for Japanese-Ameri-

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cans is even higher: 41 percent above the norm for native whites of native parentage.

Over-inclusion might appear harmless. No deprivation would seem to result from designation. But section 5 makes the inclusion of superfluous groups far from socially benign. The presence of these linguistic groups, in the context of low voter registration or turnout, establishes coverage—and once a political subdivision is covered *every* change in voting procedure must be submitted for clearance.

Between 1975 and 1977 there were 2,000 such submissions. Most, it is true, involved innocuous electoral changes that were immediately cleared. But a significant number, involving annexations, reapportionments, changes from ward to at-large voting, changes in the method of filling a public office, and so forth, were not. Precisely how many conflicts developed is difficult to tell, for disapproval usually results not in litigation, but in negotiation. That is, the voting section of the Civil Rights Division suggests ways in which the electoral arrangement can be altered to secure approval. Such off-the-record negotiations have become the heart of the enforcement procedure. For example, they lay behind the alteration of district lines in the Williamsburg section of Brooklyn, New York. Only when these negotiations break down, as they did in Richmond, does litigation commence.

Through this informal negotiating process, the Department of Justice has become the national arbiter of political conflicts involving racial and ethnic groups. Across the nation, in districts in California, Arizona, Colorado, Hawaii, Alaska, New Mexico, and New York, in addition to the South, the voting section is engaged in adjusting local electoral arrangements in order to augment the power of certain groups and diminish that of others.

A continual arriving

The Voting Rights Act was a noble response to the callousness of those who for so long permitted and perpetuated the disenfranchisement of Southern blacks. And its accomplishments have been very real: The old political order has crumbled in the South. Politics is no longer a lily-white preserve.

But not everything that has resulted from the passage of the act has turned out so well. The transformation in the meaning of political equality—the movement from equal opportunity to equal result—cannot be so simply celebrated. Congress, the courts, and the Department of Justice have taken a course that is frequently ineffective

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and always dangerous. The effort to maximize the political effectiveness of a variety of ethnic and racial groups, even when ultimately successful, is always costly. Proportional racial and ethnic representation inevitably becomes the standard by which to measure that effectiveness, and so citizens become classified for political purposes along racial and ethnic lines. There develops an acquiescence in separate politics for separate racial and ethnic groups, which are then arranged in a hierarchy with those designated for coverage placed at the top.

And the problem of costs is compounded by that of ineffectiveness. Williamsburg is a good example. Buying votes or stuffing ballot boxes works, but the drawing of ward lines cannot fix an election. In order to ensure the selection of a black, the Justice Department forced New York to redraw district lines. But factional strife, both within the black community and between blacks and Puerto Ricans, resulted in the election of a white. The underrepresentation of minorities may be a problem, but we have no reliable remedy, and those we attempt to provide don't come free.

Even where an increase in minority representation has been successfully engineered, the power of minorities may remain exceedingly limited. Such limitations were recognized in Petersburg, where blacks joined whites to choose economic growth over black numerical strength, and are even more apparent in those communities in which minorities are truly in the minority. Neither at the local, state, nor national level will a few more Mexican-American representatives get for the Mexican-American community what it needs most: legislation benefitting the poor. Political alliances are necessary—alliances based on class, rather than race or ethnicity. But the implementation of the Voting Rights Act may be decreasing the possibility of such ties. The political polarization of the society along racial and ethnic lines may be its main accomplishment. In the view of those who have modified and implemented the Voting Rights Act, separate politics for separate racial and ethnic groups appears to have become the norm. Yet if our aim is to create one society—not two or four or twenty—is this the direction in which we want to go?

That direction, it is often asserted, is only a temporary one. When the problem disappears, the act will expire. But the act itself is creating a host of new problems. Moreover, it seems well on its way to becoming a permanent part of our political landscape. How would we know when political success had been attained? We have no measure of political arrival. Those who implement the act now use the standard of racial and ethnic proportionality to assess electoral

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equity. But proportionality is a destination we shall never reach. We shall always be arriving and never there.

The act is due to expire in 1982, but there is no indication of any lessening of enthusiasm for it. The feeling is widespread, as one advocate recently put it, that "governmental units should not do less than is open to them." Until that feeling changes, and until we arrive at a definition of political equity for racial and ethnic groups that once again focuses on access, and foregoes the temptation to secure maximum effectiveness, the Voting Rights Act will be here to stay.

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Costs, benefits, and the West Side Highway

REGINA HERZLINGER

The plan to reconstruct New York City's West Side Highway is breathtaking in its scope, bravura, and expense. It calls for the construction of a four-mile-long highway, at a cost of $300 million per mile, and the creation of hundreds of acres of land by filling in parts of the Hudson River. In an era of fiscal restraint, the plan is extravagant. In a time suspicious of technology, it would build a highway—the archetypical symbol of technological evil—and in a city considered a political carnivore that regularly devours such projects. Yet of all the alternatives this one was selected, and seems likely to be implemented.

Until a portion of it collapsed in 1973, the West Side Highway was one of New York City's most vital transportation facilities. Stretching along the Hudson River from the southern tip of Manhattan to the city's northern border, it carried more vehicles into the city's central business district than any other highway and more people daily than the area's largest commuter railroad. But there had always been problems with the highway. Although it was originally intended to carry all types of motor vehicles, trucks were banned from the beginning and forced to use the streets in neighboring communities, resulting in increased congestion and air pollution. The highway's

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sharp curves and narrow ramps made it hazardous even for automobiles, and the danger increased as the roadbed deteriorated. Finally, in December 1973, a portion of the four-mile elevated structure at its southern end collapsed. Inspectors subsequently found much of the rest structurally unsound and closed it to traffic for an indefinite period.

Long before 1973, it had become clear that something had to be done about the highway. The State Department of Transportation (State DOT), which years before had become involved in the highway's frequent reconstruction projects (funded 70 percent by the Federal government, 30 percent by the state), recommended in 1969 that it be designated a part of the National System of Interstate and Defense Highways. Roads in the system were all eligible for 90 percent Federal funding of any relocation or replacement projects.

The Federal Highway Administration (FHWA) accepted the highway into its interstate system in 1971. In the same year a state authority recommended that the West Side Highway be torn down and replaced with a new highway and a mass-transit system, both to be built on an elevated structure over the water beyond the existing shoreline. A key element of the proposal was the creation of acres of new land, many of which would be used for new housing. Representatives of the city and state transportation departments met with Governor Rockefeller and New York City's Mayor John Lindsay, and all agreed on three characteristics for the project: It was to be large, controlled by the City of New York, and shaped by a planning rather than an engineering orientation. One participant in the meetings remarked on the Governor's and Mayor's reactions to the plan:

> Governor Rockefeller liked the idea. This was another opportunity—like the South Mall in Albany and Radio City and Rockefeller Plaza in New York City—to change the face of the earth.
>
> Mayor Lindsay was willing to go along with the project but was not anywhere near as enthusiastic as the Governor. He felt that something had to be done about the West Side Highway but he didn't know what. He wanted the project controlled by the planning people rather than transportation people—the City Planning Commission rather than the highway department.

The planning group prepared a memorandum of understanding in 1971 which, as one of its members said, "was to make it clear that the City of New York—not the state or highway agency or the West Side Highway Project—would prepare a land-use plan, and that the

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purpose of the highway was to act as a catalyst for the redevelopment of the west side of Manhattan." From its inception, then, the project was viewed more as a land-use measure than as a transportation proposal.

The need to redevelop parts of the city had long been clear. By 1975, the city's plight became more urgent, for the city could no longer refinance its short-term bonds and did not have reserves sufficient to meet its short-term operating needs. Great pressure was being placed on the Federal and state governments to assist New York City in meeting its short- and long-term financial needs. The West Side Highway project could help with redevelopment, and also aid New York City's fiscal situation in a number of ways. Nineteen of the seventy-seven New York City firms on *Fortune's* list of the top 250 American corporations had moved out of the city between 1962 and 1972, in contrast with the pattern of only about a 10 percent loss of similar firms by other major American cities. Many cited transportation difficulties and high labor and land costs as their reasons for leaving. As one downtown executive put it, "The least attractive thing about lower Manhattan is getting in and out." A new West Side Highway, feeding directly into the central business district in lower Manhattan, could help to diminish these transportation difficulties as well as solve some of the problems caused by the original highway.

The highway is bounded on one side by residential areas and the commercial area of Lower Manhattan. The residential communities of Greenwich Village, Chelsea, and Clinton are effectively cut off from the waterfront by the existing West Side Highway structure, with its forest of supporting columns and ramps running the length of the corridor. Moreover, all of these communities are seriously deficient in recreational space; their average of .19 acres per 1,000 residents is far below the .60-acre goal set by the Regional Plan Association. On the highway's other side is the waterfront, where maritime and related activities have significantly declined in the past two decades. Many of its piers are deserted and physically dilapidated. Because there are no bulk-cargo facilities in Manhattan, it is unlikely that this decay can be reversed. There is, however, fairly active trucking activity in the area, with firms attracted there by the ample and inexpensive office and warehousing facilities. But there is a severe shortage of parking and loading space for the trucks, so that much of the public area underneath the elevated structure and many of the piers are used for parking. Also on the waterfront are an antiquated incinerator which generates substan-

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tial air pollution and a transfer station from which barges loaded with the incinerated residue travel to landfill sites on Staten Island.

Understanding the present condition of the West Side is a necessary precondition for making sense of much of the West Side redevelopment controversy. For if one is inclined to like the thought of a smooth shoreline, with continuous parkland newly developed alongside it, one is likely to look at the piers and see a dilapidated eyesore. But if one likes the city, with its home-grown urban architecture and quirky urban pleasures, one is likely to view the matter in a quite different light. These conflicting views lay at the heart of many of the disputes that followed.

Managing the project

During their early discussions in 1971, members of the informal planning group decided that the state transportation department should hire a consultant who could steer the project through the labyrinth of regulations governing the use of Federal highway funds and who would act as executive director of the Project. They contacted Lowell Bridwell, head of a Washington, D.C. consulting firm that specialized in transportation projects. Bridwell, an imposing, intense, and energetic man, had been a journalist and an advisor to a number of Federal and state transportation agencies. He had served as FHWA Administrator from 1961 to 1963, and later, as Undersecretary of the Federal Department of Transportation. He was frequently described as "brilliant, a genius." One of Bridwell's major contributions to Federal transportation policy was to increase emphasis on public hearings for all transportation projects funded by the Federal government.

When Bridwell met with the members of the informal planning group in 1971, he made two suggestions. First, he recommended that a small "working group," rather than the larger steering committee, take responsibility for the project's ongoing work, presenting major proposals to the steering committee for ratification. The steering committee agreed and selected the state Commissioner of Transportation, the chairman of the City Planning Commission, the president of the Urban Development Corporation, and the administrator of the New York City Transportation Administration to serve in the working group.

Second, he recommended that preparation for public hearings become an immediate and continuing priority. A participant at this meeting described Bridwell's view:

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> He knew that whatever we did, we were likely to be sued. So we had to be ready for that. And he told us we would have to be candid with the public. He advocated openness; that was his philosophy on how to run a project.

As Bridwell later described them, his efforts to include interested groups in the process were considerable:

> I'm convinced that an endeavor of this size and complexity can't be managed through a committee structure. We've been successful because of our single-manager structure . . . In any major public project, this is almost a *necessary* organizational structure. We are in a period of intense public participation. The level of the involvement of interest groups, and the amount of consideration given their views, has risen dramatically over the last 15 years. This project had an extensive, formal public-participation program in which about 75 organizations took part in more than 600 meetings, briefings, and workshops. We didn't try to set up citizens' committees, but worked within existing structures. These ranged from block groups of 25 to 50 people, to larger neighborhood organizations, to organizations interested in Manhattan as a business community. Almost always, we went to them and held meetings at their choice of time and place.

The West Side Highway Project was formed as an independent organization by Bridwell and members of his firm on contract with the state transportation department. It was neither a legal entity nor a government agency. Bridwell was given responsibility for the overall direction of the project and for overseeing all feasibility studies (except the engineering studies) and all environmental analyses. He was also responsible for relations with the public and the press. Most observers agree that Bridwell was the person most responsible for shaping the West Side Highway Project.

According to a New York State official, the Project then established a headquarters which operated largely at Bridwell's direction:

> We set up an office to provide a point of reference for the public and for any agencies connected to the project. We had people there from the staffs of the City Planning Commission and the City Transportation Administration, as well as the State and Federal Departments of Transportation, so if people came in to the office with specific questions, they could find someone to answer them on any aspect of the project. We wanted this office, rather than City Hall, to serve as the focus of attention from the public, from community groups, *ad hoc* groups, pressure groups, and the press.
>
> The control of the project was in Bridwell's hands. Anything major he did had to be cleared with the steering committee, but he was given a great deal of flexibility. He managed and directed the studies, and he met with the press. Now usually, the State DOT people meet with the press and have their consultants available for their own ref-

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> erence. Consultants aren't usually allowed to meet with the press alone. But in this case, the newspapers were always in a hurry. We couldn't slow them down to the point that they might think we were withholding information. So it became a necessity to have Bridwell available to them on a day-to-day basis.

This managerial structure enabled Bridwell to control the project completely. The small size of the steering committee meant that he could minimize friction and disputes, insure greater coherence, and more easily isolate unauthorized leaks of information to the media, while the working group consisted of the key officials whose approval was necessary to insure the project's progress and who would carry the ball after Bridwell's job was completed. In addition, Bridwell's control of the project was strengthened by his role as spokesman to the press, a function for which he had considerable training and skill, having been a journalist for 20 years, including service as the Scripps-Howard chain's Washington correspondent. His insistence on openness and community interaction was motivated by a genuine commitment to community participation, but it also enabled him to strengthen his control over the project. By meeting with numerous community groups, he prevented them from coalescing into fewer and more powerful groups. Further, by meeting on their turf he prevented them from invading his.

The organizational structure and managerial strategies used by Bridwell were central to the smooth operation and success of the project. Their clarity and articulateness stand in sharp contrast to the diffuse and *ad hoc* manner in which major capital budgeting proposals are usually managed. But the management of the project does raise a serious public-policy issue: accountability. For Bridwell was a consultant, not a public official. And the Project was a temporary organizational structure, not an institutional part of the public sector. Few sanctions could be applied against Bridwell; at worst, his contract could have been terminated. But given his complete control of every aspect of the project, even that prospect was unlikely—for who could replace him? Further, the Project organization would be gone long before the highway, but under this arrangement there would be no institutionalized organizational competence for the long term of the highway's life.

Despite these flaws, most observers feel that the Project's management *process* was a successful one, and that the voice of the public was listened to in a serious and attentive fashion. But given its structure, the process easily could have become unresponsive and autocratic. This did not happen because of Lowell Bridwell's com-

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mitment to community participation and interaction, but other managers in his position could easily have used the Project's structure and the director's power to insulate themselves from opinions that differed from their own.

Sources of funding

From the beginning the presence and form of available funding shaped the alternatives to be considered. Alternatives which might have been desirable but which could not be funded with state or Federal funds were never given serious consideration. The most likely source of funds for the project was the handsomely financed Federal Highway Trust Fund, administered by the Federal Highway Administration. The State DOT was required to apply first for approval of the location of the highway and then for approval of its design. Crucial to the process was the notion of "environmental impact": the effect of a new transportation facility on the physical and social environment of the region.

Once a particular corridor was approved for a new segment of the interstate system, the state transportation department had to analyze all the feasible alternatives for a transportation facility within that corridor. Alternatives might include maintaining the existing road with no new construction, building a new highway, building some type of mass-transit system, or a combination of all three. For each alternative, the state transportation department, working with the FHWA division office, was required to make comprehensive environmental-impact analyses and to present comparative cost data.

Despite this requirement, mass-transit alternatives were never seriously contemplated. As a member of New York City's planning staff explained:

> To get the same amount of money for mass transit as for a highway, the city would actually have to raise more money because the ratio is 80 percent Federal funds to 20 percent city and state funds. The main argument against transit was a fiscal one.

New York City's Mayor Beame and Governor Hugh Carey said in a joint statement, "Transferring highway funds to mass transit is not financially prudent because of existing Federal laws and regulations and funding levels. It is not as attractive [for] spurring the city's economy." Thus, one major constraint on the scope and variety of the alternatives to be considered was that whatever proposal was selected had to be of a nature which could be financed through Federal and state funds—that is, it had to be a highway. But though

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these particular sources of funding imposed constraints, they also provided an opportunity. From the city's perspective, the funds were costless and bottomless—and that meant there was no constraint on the size of the project.

It is interesting to contrast this to private-sector capital budgeting, in which the source of funds has no impact on the delineation of alternatives but the amount available does; that is, in the private sector the effect of funding sources is not to limit the range of alternatives but rather to limit their magnitude. In the public sector, with its categorical funding sources, the process is reversed: Many alternatives are lopped off for lack of earmarked funding but there are few, if any, constraints on the magnitude of the remaining proposals.

The other factor which entered into the process was the need to address an additional six problems which the project was supposed to ameliorate: the condition of the waterfront area, the shortage of land, the degradation of the physical environment, insufficient employment opportunities, the high cost of moving goods, and inadequate transportation systems. This statement of problems made it clear that the highway was *never* regarded as merely a transportation project. It was to be an urban-development project—with impact on employment, land use, and the environment. The statement of problems ultimately led to the development of five stated goals for the project and 34 policy statements. Only one of the goals and 10 of the policy statements dealt with transportation. Although Bridwell viewed these policy statements as being useful for reducing theoretical alternatives to practical ones, they were at the same time both so comprehensive in their scope and so vague in their wording as to be of questionable value for purposes other than as documentation of the broadmindedness of the West Side Highway Project.

From seventeen alternatives to five

The actual delineation of alternatives was performed by interdisciplinary teams working in separate planning communities directly affected by the project. Their findings ultimately resulted in the designation of 17 possible locations for the new facility. The alternatives were not continuous throughout the length of the corridor, but differed for each planning district, varying locations to reflect local issues and community concerns. The alternatives spanned a vertical distance of between 120 feet below the surface and 60 feet

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above. Included was the alternative of maintaining the existing West Side Highway.

At the same time as this area-planning effort, an elaborate series of studies was carried out—of traffic conditions, of air and noise pollution, and of economic factors in the area. These studies were highly technical in nature and performed by a large number of the consultants generally recognized as the best in their fields. The studies were of two sorts: One type documented existing conditions while the other simulated the impact of each alternative on traffic, pollution, and the economy.

The 17 alternatives were reviewed over an incredibly brief period—three weeks—by a team led by New York City's director of Housing and Community Development, an intelligent and engaging man then in his late 20's. The review was meant to enable then-Mayor Beame to formulate better New York City's position. Working with the team were a former school teacher and six junior people, including a college undergraduate and an architect from France. They worked with great enthusiasm and energy, and with the willing cooperation of the Project staff—by whom they were hopelessly outnumbered and technically outflanked. The staff was particularly interested in the traffic models developed by the Project's chief engineering-consulting firm (and approved by the FHWA's special unit on traffic analysis). "We asked: Would a new highway stimulate traffic or reduce traffic?" they recalled later. "We read arguments on both sides. Both sides argued persuasively, but it was hard to believe any of it."

According to them, the group Project analyses were dominated by "an engineering orientation":

> They were making decisions on a purely technical basis. They hadn't focused on a people-oriented view—but they did whatever further studies we asked for. At one point, we changed the highway design in a proposal in response to suggestions from the community. The Project staff was appalled that nontechnical people were moving the road. But when we asked why it couldn't be changed, they couldn't come up with reasons. Then we were able to show people in the community that we had made the change they requested.

Once the 17 alternatives were delineated and described in a public document, the WSHP staff returned to the communities for response. The list was then cut to five alternatives:

1.) *Maintenance.* The existing highway would be repaired and maintained as an operating facility.

2.) *Reconstruction.* The existing highway would be partially re-

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constructed in order to correct major structural difficulties, to make the road safer, and to enable trucks to use it.

3.) *Arterial.* The highway would be torn down and replaced with an at-grade (level with surrounding area) arterial roadway of lower traffic capacity, and an underground mass-transit facility.

4.) *Inboard.* The existing highway would be torn down and replaced with a six-lane, at-grade Interstate highway with a public-transit system in the median strip. Some parts of the highway and transit system would be depressed, and approximately 21 acres of new land would be created.

5.) *Outboard.* The existing highway would be torn down and replaced by a six-lane, limited-access Interstate highway constructed on landfill beyond the existing shoreline and covered in sections, with an adjacent mass-transit system and a reconstructed West Street-Twelfth Avenue. Most of the existing waterfront facilities would be replaced with 243 acres of new landfill for transportation facilities, recreation and open space along the river's edge, and housing and other development. A scaled-down version of this proposal, called *Modified Outboard*, with less land and a lower traffic capacity, was subsequently outlined.

Evaluating benefits and costs

The benefits and costs of the five alternatives, as claimed in various documents, have been assembled and are displayed in Table 1. (This table was not readily available in any of the documents.) The benefits cited in the documents may require some explanation. *User-cost benefits,* where they appear, are the value of the time saved by passenger vehicles and trucks by traveling on those alternatives which provide for faster and smoother traffic flow, and the value of the consequent reduction in vehicle operating and accident costs. The amount of time saved was calculated via traffic-simulation models. The time was valued at $3.64 per person-hour, appropriately adjusted for inflation. Operating and accident costs and truck-time values were similarly calculated. The *value of land* was calculated at a market value of $1 million an acre and a flow of taxes of $375,000 per annum. *Regional economic effects* measure the impact of the wages paid to construction workers in the regional economy through the use of a multiplier with a value of 3. And finally, *expenditures avoided* are what would have been the costs of removing the existing structure and piers, as necessary under the non-Outboard alternatives.

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TABLE I. *Costs and Benefits for West Side Highway Project Alternatives (Expressed in Millions of Dollars)*[1]

ALTERNATIVES	SOURCE OF FUNDING	TOTAL CONSTRUCTION AND RIGHT-OF-WAY COSTS UNDISCOUNTED	ANNUAL USER SAVINGS IN 1995[4]	ANNUAL PROPERTY TAX GAINS IN 1995[4]	INCREASE IN REGIONAL INCOME DURING CONSTRUCTION	ONE-TIME EXPENDITURES AVOIDED BY CITY	TOTAL BENEFITS UNDISCOUNTED
MAINTENANCE[2]	70% Federal 30% City or State	86	0	0	$25 \times 3 = 75$	—	75
RECONSTRUCTION[2]	70% Federal 30% City or State	227	26.2	0	$65 \times 3 = 195$	—	1243
ARTERIAL (with railway)[2]	70% Federal 30% City or State	307	14.2	0	$90 \times 3 = 270$	—	838
INBOARD (with busway)[2]	90% Federal (Interstate) 10% State	1111	89.5	0	$315 \times 3 = 945$	—	4525
OUTBOARD (with busway)[3]	90% Federal (Interstate) 10% State	1415	86.5	76	$400 \times 3 = 1200$	61.5	7761.5
MODIFIED OUTBOARD[3]	90% Federal (Interstate) 10% State	1158	69.2	76	$285 \times 3 = 855$	61.5	6724.5

[1] Source: Author's compilation of West Side Highway Project data.
[2] Based on construction to 72nd Street.
[3] Based on construction to 42nd Street, including transit system construction (without transit right-of-way costs).
[4] Annual Benefits presumed to accrue for 40 years, the expected lifetime of the highway.

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The largest portion of the benefits is from the reduction in time and operating costs due to the new highway. These savings emerge from the simulation models conducted by the Project staff. But it is unclear, to even the most expert modelers, precisely what these models contain and how slight shifts in the assumptions will affect them. Further, even if the savings in time are valid, it is unclear that the time saved would be worth $3.64 per hour. Moreover, that figure is an *average* value. But the relevant data are the *marginal* values representing the opportunity cost of the extra time gained by traveling on the highway. Thus, in the estimation of user benefits the possibility of error is considerable, and benefits could in reality be larger or smaller.

A group of technical consultants, hired by a consortium of community boards called COMBO and funded by public monies, severely criticized these traffic models. COMBO claimed that the models did not take into account the fact that a new highway in whatever form would encourage additional traffic, and also claimed that the findings were so skewed by a Manhattan perspective they neglected to consider the extra traffic the highway might attract onto the island. Thus the claimed user-benefits were most unlikely to materialize. Unfortunately, the COMBO consultants lacked the time and money to develop their own models, and so had to content themselves with hypothetical criticisms. Nor was the technical language in which these criticisms were couched calculated to win a great deal of support.

A critic who made her arguments clearer was Jane Jacobs,[1] a noted opponent of centralized planning:

> [The highway alternatives were] only one small piece of a plan for an overwhelming highway network for Manhattan that would, piece by piece, Los Angelesize New York. It's an old plan that dates back to 1929. Nobody would ever consent to the insanity of doing the whole thing, and yet piece-by-piece it gets done.
>
> Robert Moses was a master at this technique. He would build a bridge without saying there must be a highway at either end. Or he'd build a road and say nothing about a great big bridge that would be needed. It was a piecemeal approach and the people would have had a fit if they had seen the whole thing and what it implied.
>
> It's nonsense to say that this net is going to remove traffic from the city's streets. It's got to have its ramps to draw traffic onto and off city streets, until the system has invaded the entire city, disrupted its very fabric.

[1] See Roberta B. Gratz, "How Westway Will Destroy New York," *New York*, February 6, 1978.

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Almost as controversial as the traffic models were the projections of land benefits. COMBO claimed that there was no causal link between the construction of the highway and the development of the land—that the two were separate activities. Jacobs claimed that the land development was a scam designed to sell the highway, that New York City could not afford to maintain its present park system let alone any new park space, and that the mixed-use residential and commercial development would meet the same dismal fate as the Battery Park City proposal, which has been lingering on the vine for at least 10 years. If Jacobs is right, the land is vastly overvalued at $1 million an acre.

Even more puzzling is the claimed benefit of tax inflows—at a level vastly disproportionate to that of land values. Further, from the perspective of society as a whole, additional taxes to New York City are a benefit only to the extent that they reflect economic growth rather than a mere reallocation of resources. If the new taxes come from firms previously located outside the confines of the city, they are hardly a genuine benefit from a larger point of view.

If the analysis is performed from the perspective of the City of New York, then taxes which enter the city from other areas *do* represent a benefit. But if the analytic frame of reference is that of the city, then the relevant costs in Table 1 should include only the city's share of the costs. But since in the case of the FHWA funds, the city's costs are zero, the whole analysis would be pointless. There is an infinite benefit/cost ratio for these alternatives—even if the level of benefits is very small.

In addition to the economic benefit and cost data, the Project staff isolated the impact of the six alternatives on traffic flow, land mass, and environmental pollution (see Table 2). The environmental data were based on the traffic simulations and subject to the same controversies. But the fundamental difficulties with these data are not quantitative but functional. How can all these diverse measures of impact be compared? How can the costs of air, noise, and water pollution be evaluated across and within alternatives?

It is also interesting to note that *none* of the alternatives can handle all of the peak morning traffic. Is Jane Jacobs' vision truth, or paranoia bred of long interaction with city planning?

Auditing the data

Various levels of the local, state, and Federal government were charged with the task of insuring that these data were a valid rep-

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TABLE II. *Other Effects of West Side Highway Project Alternatives*[1]

ALTERNATIVES	NEW HOUSING	NEW PARKLAND	MORNING PEAK HOUR TRAFFIC (1995)	LOCAL STREET TRAFFIC	RELOCATION	AIR POLLUTION	NOISE POLLUTION[3]	WATER POLLUTION	DRIVERS DIVERTED TO TRANSIT DAILY
MAINTENANCE[2]	None	None	Volume exceeds capacity for most of highway; average speed hwy = 14.5 MPH average speed streets = 5.7 MPH	No change	None	No change in CO, hydrocarbons, or NO	During construction—1 after construction—3	No change	None
RECONSTRUCTION[2]	None	None	Volume exceeds capacity for ⅓ of highway; average speed hwy = 18.4 MPH average speed streets = 6.0 MPH	Insignificant change in cars; 9% fewer trucks	4 buildings (13 businesses)	Slight increase in CO levels; no change in others	During construction—2 after construction—5	No change	None
ARTERIAL[2] (with railway)	None	2.81 inland acres; improved access to Battery Park	Volume exceeds capacity for ⅓ of highway; near capacity for rest average speed hwy = 12.1 MPH average speed streets = 5.7 MPH	Insignificant change in cars; 6% fewer trucks	None	Largest in CO levels, exceeding Federal standards	During construction—3 after construction—4	No change	9000

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INBOARD[2] (with busway)	None	21 acres of waterfront park	Volume exceeds capacity for ⅓ of highway; average speed hwy = 22.6 MPH average speed streets = 6.8 MPH	Slightly fewer cars; 9% fewer trucks	48 buildings (89 residents and 91 businesses) 18 pier tenants	Slight decrease in CO (by diverting truck traffic)	During construction—5 after construction—2	Slight improvement from smoothing shoreline	10,500
OUTBOARD[3] (with busway)	128 acres for future development	75 acres of waterfront park	Volume exceeds capacity for ⅓ of highway; average speed hwy = 23.6 MPH average speed streets = 6.8 MPH	Slightly fewer cars; 12% fewer trucks	46 buildings (89 residents and 101 businesses) 23 pier tenants	Slight decrease in CO (by diverting truck traffic)	During construction—4 after construction—1	Slight improvement from smoothing shoreline	10,500
MODIFIED[3] OUTBOARD	101 acres for future development	93 acres of waterfront park	Same as Outboard	Same as Outboard	47 buildings (109 residents and 92 businesses) 15 pier tenants	Same as Outboard	Same as Outboard	Same as Outboard	10,500

[1] Source: West Side Highway Project analyses.

[2] Based on construction to 72nd Street.

[3] Based on construction to 42nd Street, including transit system construction (without transit right-of-way costs).

[4] The number 1 represents the lowest pollution levels, 5 the highest.

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resentation of the impact of the six alternatives. The New York State transportation department, Regional and Federal FHWA officials, and staff in the office of the U.S. Secretary of Transportation, were concerned about the fragile nature of the benefits. The Divisional FHWA and New York State DOT assigned two people to spend at least three days a week at the Project offices.

At this level the simulation models, which were the heart of the evaluation process, were unaudited. The auditing was restricted to the data. And given the tremendous amount of time spent by these two in the Project offices, it is difficult to imagine that the two men did not begin to think of themselves as part of the project rather than as its auditors.

At the Regional FHWA level, the alternatives and their impacts and costs were subject to a three-week review by a multi-disciplinary task force. Their concern was with the *process* of delineating the alternatives rather than with the *substance* of the evaluation. They wanted to insure that there was consideration of all the social, economic, and environmental effects of the project; presentation of all the alternatives; community involvement in the decision-making process; and an inter-disciplinary approach to technical studies and preparation of the alternatives.

The Federal-level FHWA review was done from a more technical standpoint. One official described that process:

> At the Division level, the people are generalists. They aren't as expert in particular technical fields as the specialists in the Washington headquarters, but they know the area itself, the city, very well. At the Washington level, we look for results, to find out if the answers to technical questions are reasonable. The technical people do not develop their own models during their review, to check the models used in the preparation of the alternatives, but they are in contact with people around the country who are developing models, and they know which models are relevant and which are not. This is true for air quality, noise, traffic—all the technical areas.

In short, *at no point in the review process were the models and their working thoroughly evaluated*, though the field of model building is not uncontroversial—particularly when applied to the areas of transportation and pollution. It is conceivable that results different from those arrived at by the Project staff could have been obtained by people with equally impressive credentials.

The governmental audit thus confined itself to the *process* of generating the alternatives, to insuring that rules and regulations were followed. The *substance* of the data was never challenged, because

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of the assumption that a well-functioning capital-budgeting process would lead to the selection of the best alternatives and the appropriate delineation of their benefits and costs. But in fields as new and as controversial as transportation and pollution modeling, that assumption is tenuous.

Selecting the project

In theory, the benefit and cost data depicted in the tables should, if valid, be adjusted for the time-value of money, and the most cost-effective proposal should be chosen. The Project never published such an analysis of the various possibilities, however, but contented itself with publishing only an analysis of the Modified Outboard alternative, the one it recommended be adopted. Using refined versions of the data in Table I, it calculated that alternative's benefits and costs, using constant dollars and a 10 percent discount rate as recommended by the Federal government's Office of Management and Budget (OMB), and arrived at a benefit/cost ratio of 1.24.

COMBO challenged this analysis. It inflated the benefit data at 6 percent (using the Consumer Price Index as the inflationary basis), inflated the cost data at 15 percent (to adjust for the rise in construction costs), and used a 6 percent discount rate. Its conclusions, as shown in Table 3, were vastly different from those of the Project. They indicate that the Outboard alternative has a level of benefits substantially lower than that of its costs, and that the most cost-effective alternative is the Arterial.

COMBO's analysis is hard to justify. The discount rate used in public projects should reflect the opportunity-costs of the private funds being displaced. The OMB's calculation of a 10 percent rate reflected this opportunity-cost on a national level and without adjusting for the impact of inflation. COMBO's discount rate is thus obscure for two reasons: The 6 percent (whose origin is unexplained) probably reflects New York City's borrowing costs, but these funds are primarily Federal and state in origin. Second, if capital is indeed efficient, then the 10 percent rate used for Federal analyses ought to be used for state and local analyses as well. And since the rate is free of inflation it should be applied to benefit and cost calculations expressed in constant dollars, and not to the inflated data presented by COMBO.

But if the COMBO analysis is confused, the Project's selection of the Modified Outboard as the most cost-effective proposal is sim-

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ilarly, and more seriously, flawed. For no matter which of the criteria one uses to evaluate the cost effectiveness of the various possibilities—whether one divides present value of benefits by present value of costs, or subtracts costs from benefits, or whether one utilizes a 10- or 6-percent discount rate—the Reconstruction alternative is the most cost-effective. Even if the dubious tax credits claimed for the Modified Outboard plan are included in the calculations, it pulls no better than second place—and if they are not, it falls behind the Inboard proposal as well and ties with the Arterial alternative as third most cost-effective.

How then was the decision made to select the Modified Outboard proposal—"Westway" as it came to be called—as the best alternative? *It was selected because of the Federal categorical-funding formula.* One of the participants in the local process purported to explain the alternatives' comparable costs and benefits:

> The Maintenance alternative would make the road structurally safe but still would not get the trucks off the city streets and would not be funded by Federal Highway Trust funds. The city and state would have to provide all of the money. The Reconstruction alternative did not meet Interstate criteria; therefore, non-Interstate Federal funding would be used, which would amount to 70 percent. The Arterial alternative had, generally, the worst environmental impact and it virtually eliminated safe access to the waterfront. The only two remaining alternatives which were eligible for Interstate funding were the Inboard and Outboard alternatives. The estimated cost difference between these two is relatively small.

Although he is ostensibly talking about benefits and costs, this policy maker's major focus is on the funding from the perspective of New York City. A leading official in the New York State Bureau of the Budget drives the point home:

> We supported the Westway proposal for [reasons of] economic development—absolutely vital. Jobs are crucial. If we didn't have a fiscal crisis in New York City, it might have been a more difficult decision to make, but given where the city is, I don't think we had any choice. There were other reasons—the flow of people in and out of the city—but primarily we're talking about New York City's fiscal crisis.

And who can blame them? From the city's perspective the funds are costless. From the state's perspective, the money is pretty close to costless—carrying a 9 to 1 leverage factor. Since the state would have to pump money into the city anyway, it seemed better to pump dollars which carried a Federal nine-dollar multiplier with them.

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What of the Federal government? It ought to have had a broader perspective, and balanced these provincial concerns against the overall public good. But apparently, FHWA did not feel it had that particular mandate:

> The fact that New York City's Mayor and the New York State Governor were behind the Westway alternative had a lot to do with its initial selection. We try to keep our hands off at that stage; it's better to have certain decisions made at the local level, particularly in a Federally assisted program like ours. FHWA's responsibility is to determine whether all environmental requirements have been satisfied with regard to the proposed project.

The words of that FHWA official were echoed by an advisor to then-Secretary of Transportation William Coleman:

> The public-policy issue was: Should this much money be spent in one locality on 4.2 miles of highway? However, the authority to question the development of a highway for this reason, at the Federal level, was not clear. In other words, if money is available in the Federal Highway Trust Fund and if the state is willing to put up the necessary matching funds, we don't appear to have the right to say it's not the appropriate choice. So the choice of whether or not to build comes down to the environmental issue, at the Federal level.
>
> We felt it wasn't right for the Office of the Secretary to get into technical analyses; we only had to be sure the analyses were done well. We shouldn't be second-guessing our highway people. We spent a great deal of time with Bridwell and his staff to be sure they had done the best possible job on predictions. We were satisfied that present congestion in the area, with the absence of a highway, made for worse pollution than the development of a highway would.
>
> Some of my staff had their doubts about the project's costs, but for years we had been pressuring FHWA to internalize the costs of making highways environmentally compatible. Here was the perfect example of how to do it in an urban area. A substantial portion of Westway's costs would be involved in doing so. They'd adopted every principle we'd advocated—designated lanes for heavy traffic, bridle paths, bicycle paths, parks, etc. The Federal government's policy was—we're willing to pick up costs to make highways environmentally compatible. On that basis, we recommended to Secretary Coleman that he approve it. What else could we do?

Thus the Federal stance has a "Catch-22" quality to it: It could not disapprove unless the city and state did—but they would never disapprove such a generous funding formula. So all the Federal officials could do was to question the selected project's environmental impact. But even that could not be done for lack of manpower, knowledge, and time. So they had to content themselves with a review of the *process*. Lastly, the U.S. Department of Transportation

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could have raised the issue of the project's costs of $300 million a mile—compared with more normal costs of $15 to $30 million a mile—but to do so would have raised again the image of the narrow-minded engineers heedlessly destroying the environment for the benefit of King Car. The U.S. Department of Transportation had to prove that it was environmentally concerned—even if the costs of creating that image were outrageous.

The end of the highway?

The final obstacle to Westway was removed by New York City's newly elected Mayor Koch. He had run on an anti-Westway plank, but shortly after he was elected, he approved the project's design, calling it "inevitable." And given New York City's fiscal situation and the nature of the Federal-funding formulas, it is indeed that. The pressure of free Federal dollars is inexorable, their virtually limitless nature irresistible.

But what of the public good? Not once throughout the long and elaborate process was the question asked, "Is this the best way to spend $1.2 billion of the taxpayers' money?" Nor was the question asked, "Is this the best way to pump $1.2 billion into the City of New York?" For the city must have many items higher on its priority list than filling in part of the Hudson and building a highway on its West Side. Not even the narrower question was asked, "Is this the best way to provide transportation and/or development on the West Side?" Despite all the analysis, it is unclear that Westway is the best transportation alternative. Privately the FHWA favored the Reconstruction alternative, and many citizens argued vociferously for mass transit.

The only question answered during the process, which to date has taken over seven years and cost over $20 million for planning alone, was simply, "Which alternative will bring the most money to New York City?" The answer to that question was fairly obvious. Nothing about the Westway proposal is done on a less than extravagant and breathtaking scale.

Issues of rational capital budgeting and public policy were completely irrelevant to a process for which the only real issue was managerial: "How do we get this proposal accepted in the New York City political jungle?" Yet capital budgeting—the proper allocation of resources—was the issue to which the system ought to have been addressing itself. Capital budgeting consists of three steps: the delineation of alternatives, evaluation of the costs and benefits over

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time, and selection of the most cost-effective mix of projects. Unlike the private sector, which routinely undertakes each of these steps, and whose understanding and utilization of capital-budgeting techniques has markedly increased since the Second World War, the public sector does none of these. Rather the public sector confronts capital-budgeting decisions with a technical literature that is contradictory and inconclusive, in a climate in which managerial techniques are neglected, and in which officials are reluctant to formalize the decision-making process.

New York City found, in the person of Lowell Bridwell, a marvelously skilled and able consultant to navigate the project through dangerous political waters. But he was a consultant, not a public official. And the public officials had neither the time, nor the manpower, nor the funds with which to monitor effectively the process of selecting the best alternative. The point is not to challenge Bridwell's work. It was inspired, professional, brilliant. Rather, it is to highlight the fact that there was no managerial capacity in the public sector with which to audit or manage such work.

The case of the West Side Highway provides a clear demonstration of the managerial impediments to rational capital budgeting by public-sector organizations. It offers a national, not a local, lesson. For New York City is not alone in its fiscal difficulties—its financial situation has counterparts in cities all over the country. The Federal Highway Trust funds are hardly the only categorical sources of money available to hard-pressed local and state governments. Narrowly defined pockets of money account for more than 80 percent of the Federal distributions to state and local governments. The results in these programs are as pernicious as in the Westway project: trillions of dollars, invested without regard for cost effectiveness, in capital projects whose sole purpose is to bring Federal or state dollars into a particular locality.

The obvious solution is unlikely. Congress was elected to target funds for particular sectors and interest groups, and it is most unlikely to give up its power to do so. And so there is little likelihood that localities will be given sizeable sums of money other than in the form of categorical grants, and slim chance that localities will develop—from having to make do with general, preordained sums for transportation, housing, education, and the like, whose efficient utilization is the localities' responsibilities—a discipline comparable to that profit and loss engender in the private sector. But that is not to suggest that management of the Federal grant process cannot be reformed.

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The monitoring capacity of the Federal government should be increased, and its scope of inquiry broadened to include fundamental questions of public policy. There is no reason why the U.S. Department of Transportation should not be able to ask the question, "Is this the best way to spend $1.2 billion?" And it is terribly important in our stagnating and bloated economy, with its ever-increasing number of low-productivity public investments constituting an ever-growing portion of GNP, that a Federal agency have the right to ask such questions and to assure itself that it is receiving reasonable answers.

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Zero world population growth?

DONALD J. BOGUE & AMY ONG TSUI

WORLD fertility trends took a significant and largely unanticipated downward turn during the decade between 1965 and 1975. Wherever it has been possible to measure fertility changes since 1970, it has been found almost without exception that birth rates have fallen, even if slightly, and in a number of cases the declines have been rather large. And these downward trends are broad-based: Several countries that are in the category "less developed" have experienced substantial declines, as have countries where the standard of living is relatively high. Moreover, the magnitude and pace of this decline is greater than many demographers had expected.

We believe that this worldwide decline is only the early phase of what will almost certainly become an even more precipitous fall in fertility, and that this development makes it necessary for demographers to review and re-examine their projections for the future. We predict that by the year 2025 the world will have nearly achieved zero population growth. It is estimated that this equilibrium will be achieved with a world population of about 7.4 billion—easily within the "carrying capacity" of the planet. The "population bomb" is rapidly becoming a dud, primarily because of the worldwide drive by Third World countries to introduce family planning as a part of

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their national social-development services. The predictions made here assume a continuation of this policy.

In a just-completed, comprehensive study of world fertility trends, we made use of the most recent and reliable information available from a wide variety of sources to estimate the 1968 birth rate of every country and the rate seven years later, in 1975.

Population decline has become the dominant trend in both underdeveloped and developed nations (see Table I on page 101), and on every continent (though less so in Africa than elsewhere). Measuring total fertility rates—the number of children that would be borne by 1,000 women aged 15 to 49 if they were to experience a lifetime of fertility at the rates observed or estimated for a specific year—we determined that 81 percent of the earth's inhabitants live in nations that experienced population decline in this seven-year period.[1] Aside from Africa, only in Europe, the U.S.S.R., and North America (where birth rates had already sunk to the level of bare replacement or below) did birth rates tend to remain unchanged or rise for a substantial share of the population. In addition, the overall amount of the decline was substantial: In 1968 the total fertility rate (TFR) of the world was estimated to have been 4635 (i.e., an average family size of 4.6 children), whereas by 1975 it had declined by 12 percent to an estimated 4068 (an average family size of 4.1 children). This is an overall decline of nearly 2 percent per year and represents a decline of 0.5 children in average family size in only seven years. The amount of change varied widely from nation to nation, but in most nations outside Africa the size of the declines was impressive.

Demographers and family planning

This worldwide fertility decline comes as a major surprise to many demographers, who anticipated no change or only very gradual declines in fertility. For example, the United Nations population projections made in 1973 predicted levels of fertility for 1975 that were, for almost all nations, substantially above the actual fertility of these countries in 1975. Indeed, the decline seems to have been two-and-a-half times greater than these projections! The fertility declines in the developed nations of Europe, North America, and

[1] For data for specific countries, and the details of the procedures by which these estimates were derived, see: Amy Ong Tsui and Donald J. Bogue, "Declining World Fertility: Trends, Causes, and Implications," *Population Bulletin*, Vol. 33, No. 4 (Population Reference Bureau, Inc., Washington, D.C.). October 1978.

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TABLE I. *Summary of Fertility Changes in 148 Countries, 1968-1975*[1]

	TOTAL	LESS DEVELOPED	DEVELOPED
Number of countries in which birth rates:			
Declined[2]	103	78	25
Remained Unchanged or Increased	45	35	10
Population (in thousands) of countries in which birth rates:			
Declined	3,265,255	2,642,576	622,679
Remained Unchanged or Increased	749,647	273,481	476,166

[1] Source: Authors' calculations.
[2] A nation's fertility level is classified here as having declined if the total fertility rate was 100 or more points lower in 1975 than in 1968. This is equivalent to a decrease of one child per 10 women.

Oceania (including Japan) are a predictable extension of a pattern that began in the late 1950's, as the postwar "baby boom" collapsed. But the decline in the less-developed countries (LDC's) has been surprising indeed.

Though the phenomenon is recent, pioneering efforts to develop an explanation for population decline in LDC's have already appeared. In separate studies, K. C. Zachariah of the World Bank and W. Parker Mauldin and Bernard Berelson of the Population Council have undertaken to account for the trend in terms of various indicators of social and economic development. Both studies found that the rate of fertility decline in less-developed countries appears to be influenced substantially by the amount and quality of organized family-planning programs. Countries that have well-funded programs with nationwide coverage tend to experience significantly more rapid birth-rate declines than nations that have smaller programs or only limited coverage.

Mauldin and Berelson constructed an "index of family-planning effort" for each developing country, based on the degree of official commitment to a fertility-reduction policy, the availability of contraception, the extent to which family planning was promoted, and similar criteria. They found that this family-planning index had a higher correlation with declines in the birth rate than any of the eight indices—such as literacy, school enrollment of children, and life expectancy—they used to measure social and economic development!

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We undertook to re-test the Mauldin-Berelson finding, making use of the refined measures of fertility change they had assembled and statistical techniques designed to isolate the effects of several different variables. Taking the implied change in fertility (the total rate in 1975 minus the rate in 1968) as the factor to be explained, we analyzed the independent effect of each of the variables holding constant the effects of the other six.[2] Contrary to what one would expect, the greatest fertility declines did *not* occur in developing countries with the greatest economic growth. Nor did those nations that had already managed to bring about some fertility decline have the largest fertility changes. *Instead, the nations with higher birth rates in 1968 tended to experience the largest fertility reductions.* Similarly, the analysis indicated that fertility decline was greater among nations with *high* infant mortality than among nations with low infant-mortality rates.

In theory, larger fertility declines would have been expected in nations that have undergone greater social change toward a more urban way of life. This was not the case. Neither did the greatest declines in fertility occur in nations where higher percentages of employed women tended to be in nonagricultural industries, and the expectation that larger fertility reductions would be found among nations where oncoming generations of women have access to education was only weakly supported. *Rather, the greatest declines in the birth rates were found in those countries that had made the greatest family-planning effort.*

Family-planning effort explains far more of the birth-rate reductions than does any other variable, including development. We reached this conclusion after performing a simple, powerful test of the effects of family-planning programs. First, six development variables other than family-planning effort were allowed to exert their full explanatory effect upon changes in fertility. Then a complete seven-variable multiple-regression analysis, which included the family-planning effort, was computed. The amount of explanation of fertility decline increased from 29 to 47 percent when the family-planning variable was added. This additional explanation of fertility change by family planning increased the original level by 63 percent! This would seem to establish family planning as a primary causal factor.

[2] The statistical details of this analysis, with tables, are presented in an article, "The Role of Family Planning in Reducing Fertility in Developing Countries," by Donald J. Bogue and Amy O. Tsui, *Family Planning Résumé,* Volume 2, 1979. The authors will provide a copy of this article on request.

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This discovery—that high fertility can be reduced markedly by direct intervention programs intended to slow population growth—should come as a heartening revelation to a world accustomed to gloomy forecasts concerning the demographic future of the human race. During and prior to the decade 1965 to 1975, there had been massive efforts by the United Nations, the U.S. Agency for International Development, the International Planned Parenthood Federation, numerous private foundations and national organizations, and the governments of developing countries. As of 1975, about $1-billion per year was being spent for family planning in developing countries, most of it in the form of material and financial resources that support the efforts of family-planning service workers to provide information, counselling, and assistance. *The clear implication of the analyses by experts of the World Bank and the Population Council, as well as of our own findings, is that these efforts are "paying off" in a more rapid reduction in fertility than would otherwise occur.*

A new theory of fertility

Demographers have tended to be pessimistic about the effectiveness of family-planning programs in less-developed countries. They have argued that rising standards of living, the reduction of illiteracy, industrialization, urbanization, reduction in mortality (especially infant mortality), and similar changes—all of which proceed extremely slowly—are the principal forces that bring about fertility declines. It was assumed in the U.N. forecasts, for instance, that family-planning programs would be only minimally effective, a skepticism about family planning rooted in the Malthusian doctrine that populations tend to increase in numbers up to the limit of the capacity of the environment to support life. This catastrophe did not happen in Europe and North America, demographers hypothesize, because of the Industrial Revolution, and, by analogy, catastrophe can be averted in the LDC's only by economic development.

It now appears that those gloomy predictions are in error. And so the science of demography has arrived at a critical point in its history: It is confronted with new and unexpected fertility behavior. *Instead of clinging to the doctrine that general economic and social development is the dominant cause of fertility decline, demographers should be willing to consider the possibility that a major factor in recent fertility declines in LDC's has been the massive intervention of organized family-planning programs.*

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A theory that explains the recent declines in fertility may be stated in brief. When a person is informed that his life conditions can be improved—or saved from becoming worse—by curtailing childbearing, that person eventually will tend to do so, providing he or she:

A. Has adequate knowledge and understanding (cognitive preparation):
   1. believes in the message of family-planning programs
   2. has the necessary knowledge of contraceptive methods
   3. believes it to be socially acceptable to use these methods
   4. believes that the methods to be used are effective and that the risks of using them are low
   5. believes that he or she is competent to carry out the procedures

B. Receives service:
   has the devices or materials required for contraception readily and economically available through channels he or she trusts and upon which he or she can rely.

When "cognitive preparation" becomes even moderately prevalent among a population and information comes to be shared with friends and neighbors, it begins to take on the character of a social movement, which then becomes a cultural adaptation. Stated in larger terms, this proposition becomes a sociological theory of demographic regulation: *Every society tends to keep its vital processes in a state of balance whereby a population will replenish losses from death and will grow to the extent deemed desirable by collective norms.* These norms are flexible and readjust rather quickly to changes in the ability of the economy to support a population. Where life conditions are highly unfavorable, as in an underdeveloped country, family-planning communication programs that provide the cognitive preparation described above and contraception distribution programs that furnish services previously unavailable may be expected to yield prompt adoption of family-planning practices, despite low levels of education, low standards of living, and with no improvement in other conditions of life.

This process of demographic readjustment, in the manner of all social changes, is gradual or rapid depending upon cultural and other characteristics of the group. Although the process may be slower in societies where illiteracy is high, where previous religious or cultural norms have encouraged propagation, where there is a fatalistic outlook, where death rates are high, and where economic

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conditions are at the subsistence level, this fertility control nevertheless can and will take place. This is the clear implication of our analysis of world fertility changes, and it is being vertified by the utilization of family planning by large numbers of illiterate, poor farm families in many developing countries. Even in the absence of external help, the population will gradually evolve its own rationale and procedures; organized family-planning education and service can greatly accelerate it.

Our theory has significant derivatives or corollaries:

a. Where other services are not available, but there is cognitive preparation, a substantial portion of the population will make use of abortion, infanticide, withdrawal, rhythm, or other methods, even when the effectiveness and reliability of the particular method is not high.

b. Where services are provided but cognitive preparation is low, little change in fertility will take place.

c. Any program that stimulates cognitive preparation will result in greater demand for the services.

d. Any program that substitutes highly accessible, reliable, and easy-to-use methods of contraception for unreliable, dangerous, or unpleasant methods will more quickly achieve actual fertility decline.

e. Special programs that simultaneously provide the twin components of cognitive preparation and family-planning services can greatly shorten the length of time required to reduce birth rates.

f. The pace of fertility decline in LDC's in the future will depend in large part on the coverage and strength of fertility-planning policies, their "quality" both in terms of their relevance for the existing culture and the extent of their coverage, and the skill with which they are administered.

A new basis for predictions

If our theory is correct, the entire process of predicting the future course of human fertility should be altered. For the past decade, demographers have used simple extrapolations of current fertility rates or recent declines, and have consistently underestimated the rate of fertility decline and overestimated population growth, both in developed and developing countries. It is now clear, however, that accurate projections require the anticipation of changes in the quantity and quality of family-planning programs, and their expected effectiveness. This is the variable that will determine, far

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more than any other, what will be the course of fertility in developing nations.

The downward trend in fertility rates in the less-developed countries is too recent, and the assessment of the part that family-planning programs can play in the future too crude and inaccurate, to permit precise statements of future trends. Nevertheless, the need to readjust both demographic theory and present population projections is considerable, especially in light of a number of major developments promising greater family-planning acceptance and effectiveness:

1. The process of cognitive preparation is now under way all over the world. The United Nations, the developed nations, and a large scientific community are conducting a massive worldwide campaign for family planning, in which an increasing number of less-developed nations are participating.

2. The evidence is accumulating that high birth rates are everywhere barriers to national development goals, and this will gradually produce a greater acceptance of organized family-planning programs in the near future, even in those countries where the programs are now opposed. The availability of financial and technical assistance for implementing family planning, and the simple presence of a worldwide program to support it, will hasten the abandonment of the pro-propagation outlook. Hence, within a decade, substantial private, if not public, family-planning systems will almost certainly be operating everywhere in the world.

3. As the efficacy of family planning in promoting social and economic development becomes more widely appreciated, contributions to this form of international assistance will increase, so that generous aid will be available to any nation that is willing to accept it.

4. Because a large number of professionals from many disciplines are working in the family-planning area, and because new research and knowledge are rapidly accumulating, the effectiveness of family-planning programs in promoting greater knowledge and understanding of contraceptive methods will improve greatly. The ability to work rapidly in low-literacy, low-income, rural, and "backward" situations will improve.

5. Steady improvement will be made in family-planning services —the variety of methods offered, and the accessibility and convenience of service. This has already begun in many LDC's, and may be expected to spread rapidly into even remote rural areas within the next decade or two.

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Thus, the most realistic assumption that can be made about the future course of fertility in countries that now have high birth rates is that these rates will fall *even more rapidly* than they have in the recent past. In countries where birth rates have not yet begun to decline, the process will begin very shortly. In countries where birth-rate declines have already gained momentum, the trend will continue or accelerate. The declines will continue until population growth and economic well-being have been brought into a socially desirable balance, which may mean in some cases less than replacement-level fertility.

Phases of fertility decline

Fertility decline in Europe and the United States tended to follow a gentle, straight downward course over two centuries, with vicissitudes introduced by wars, economic booms, depressions, and internal political upheavals. Most population projections today assume that once fertility decline begins in LDC's, it follows a similar pattern and that the rate of fertility decline will remain roughly constant throughout the period of decline. But theories of sociological change, as well as empirical evidence from less-developed countries where fertility declines have taken place, suggest that this assumption is incorrect. Rather, we believe that a graphic representation of fertility decline during the next century will be more likely to resemble a "reverse S" than a straight line with a steady slope of decline.

The factors that determine the rate of fertility decline are sociological, not demographic. We believe that even more than most innovations, popular acceptance of contraceptive methods will conform to the "textbook" stages of change: a "pioneer" phase, which involves a few daring persons; an "early-adopter" phase, involving the more sophisticated, change-oriented individuals; a "mass-adoption" phase, in which the great bulk of the population joins; a "late-adopter" phase, which finds acceptance by the more conservative; and finally, a "laggard" phase, which includes even the most reactionary, distrustful, and inflexible. Because adoption of family planning involves both social and medical risks (in the minds of the pioneers and early adopters), it may be expected to have a slow take-off, with increasing acceleration as more people adopt. Once it becomes an accepted, normal activity, the phase of "mass adoption" may be expected. As the supply of potential adopters diminishes and only those who have opposed family planning on extreme

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religious, political, moral, or unjustified medical bases remain, the pace of decline may be expected to decelerate.[3]

In our opinion, fertility decline will be characterized by the following six phases:

Phase 1: "Pioneer" adoption. When the crude birth rate[4] is 60, there is zero contraception. The beginnings of fertility decline are very gradual, as only a few people break with tradition and seek to space or limit births. Much of this early fertility regulation is ineffective and is accomplished by abstinence, withdrawal, induced abortion, rhythm, or some other "folk" method. When modern contraception is offered, only a few of the most daring and liberated may utilize it, and their numbers increase only slowly.

Phase 2: Early adoption. As the crude birth rate breaks into the 40's, the practice of family planning becomes less an act of deviant behavior and more a matter of opinion leadership, greater rationality, and an orientation toward social change. Nevertheless, at this early stage, only between a quarter and a third of the couples are using contraception, and most of these are still using folk or other unreliable methods, including delayed marriage.

Phase 3: Mass adoption. At a crude birth rate of 40, approximately one-third of the couples are practicing contraception. This is the point at which, in most adoption research, "early adoption" gives way to "mass adoption." At about this point, therefore, we should look for swift fertility declines. This has proved to be the case recently in many parts of the world; once the birth rate sinks into the high 30's, it tends to descend swiftly into the mid-20's. We predict mass adoption will become universal in the remainder of this century and the beginning of the next.

Phase 4: Late adoption. As the replacement level is approached, roughly two-thirds of all couples are using contraception; only the more conservative segments of the population (and young couples just starting families) are not. The pressures to reduce fertility have

[3] We believe that one of the major determinants of the rate of decline in the future will therefore be the level of fertility itself. This results from the very close relationship between the birth rate and the proportion of couples who practice contraception. If the birth rate is high, the annual decline may be expected to be small in spite of family-planning effort, because under these circumstances only a small fraction of the population are contraceptors, the behavior is less socially accepted, and those who practice must do so as "pioneers." As birth rates fall to lower levels, however, a greater percentage of the public practices contraception, it is a more socially accepted practice, and thus there is for a time the possibility of even greater fertility declines.

[4] The crude birth rate is a frequently used measure of national fertility. It is the number of births per 1,000 total population enumerated at midyear.

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begun to diminish. Consequently, the pace of fertility decline may be expected to decrease.

Phase 5: Laggard adoption and below-replacement fertility. When replacement-level fertility is reached, only a tiny and inconsequential proportion of couples have never tried to regulate their fertility. These "laggards" may at last adopt contraception, but the effect on the birth rate is negligible. Meanwhile, the great masses who have adopted are regulating their family size to progressively lower levels.

If the population has exceeded its resources, and there is severe malnutrition, unemployment, and resource depletion (a position in which most LDC's are increasingly finding themselves), we may expect birth rates to decline below the replacement level and to remain there for a sustained period of time, not only until population growth has been brought to zero, but until absolute population decline has reduced the population size to one more consistent with life-sustaining resources.

We hypothesize that due to extended life expectancy as a result of the rapid pace of modernization, to the religious, public, and political resistance to family planning, and to inadequate methods of communicating to the public the family-planning message, most of the developing countries will be severely overpopulated by the time they reach the replacement level of fertility (a crude birth rate of 15). It is our prediction, therefore, that they will proceed immediately and directly to substantial and sustained below-replacement fertility. They may remain in this state for a full quarter or half century—until their populations and resources are in balance and they can thus enjoy an improved standard of living. We predict that much of the 21st century will be one of replacement-level or below-replacement-level fertility throughout the world, including most, if not all, of the present high-birth-rate countries of Asia, Latin America, and Africa.

Phase 6: Recovery. When a combination of below-replacement growth and technological development brings each population into an equilibrium with its world environment so that it may enjoy a satisfying and secure standard of living, fertility may be expected to return to the replacement level.

Future declines in fertility

Our argument makes it possible to chart future trends in a way that should be more realistic and more accurate than demographic

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predictions in the past. Our projections of future fertility trends make three basic assumptions: that the rate of fertility decline will be directly proportional to the amount of family-planning effort expended (on a per-capita basis) and to the quality of those efforts; that the rate of fertility decline will be a function of the birth rate itself; and that steady, but not necessarily spectacular, progress will be made in other aspects of social and economic development, including a continuation of efforts to reduce infant mortality, promote adult literacy, raise living standards, and promote community development. Also implicit in our projections is the corollary that the major factor in determining the future course of a nation's popula-

TABLE II. *Summary of Projected Fertility Levels for 148 Countries in 2000 under Three Assumptions*[1]

FERTILITY LEVEL	ASSUMPTION		
	High[2]	*Medium*[3]	*Low*[4]
Number of			
Nations with fertility below replacement (TFR lower than 2.1)	47	45	60
Nations with low fertility (TFR = 2.1 up to 2.5)	9	13	10
Nations with moderate fertility (TFR = 2.5 to 3.1)	13	16	10
Nations with high fertility (TFR = above 3.1)	79	74	68
TOTAL	148	148	148
Percent of world's population in			
Nations with fertility below replacement (TFR lower than 2.1)	43%	43%	52%
Nations with low fertility (TFR = 2.1 up to 2.5)	6%	7%	23%
Nations with moderate fertility (TFR = 2.5 to 3.1)	6%	24%	6%
Nations with high fertility (TFR = above 3.1)	45%	26%	19%
TOTAL	100%	100%	100%

[1] Source: Authors' calculations.
[2] The high estimate assumes that each country will maintain its present family-planning status, and will follow out the schedule of changes indicated for that status.
[3] The medium projection (most likely to take place) assumes that the schedule of fertility declines will occur, but that in addition the respective nations will strengthen their family-planning programs.
[4] The low projection (less likely than medium projection but nevertheless quite possible) assumes a much greater family-planning effort than for the medium projection. It assumes that all nations will strengthen family-planning programs to arrive at a "strong" family-planning program by 1995.

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tion growth is when and with what degree of sincerity it undertakes a nationwide family-planning program.

Given these assumptions, how much fertility decline can we reasonably expect over the course of the next two decades? Based on a study of recent trends in countries with major family-planning programs and in which fertility declines have taken place, we have predicted annual fertility decline under four possible conditions—strong, moderately strong, and weak levels of family planning, as well as no family planning at all. From these projections, we were able to predict annual declines for 148 countries and each of the world's regions for the years 1975-2000. Table II on page 110 summarizes our projections of the fertility levels of the world's nations in the year 2000.

By the year 2000 about one-half of all the *nations* on earth will be out of the high-fertility category. More impressive is the finding that under the medium estimate—the one most likely to be borne out by events—almost three-quarters of the world's *population* will be out of the high-fertility range by then. Using our fertility predictions, we have been able to predict the population of the world in the year 2000. Table III, which appears below, contains a brief summary of our projections.

Our estimate of world population in the year 2000 varies widely from those of such institutions as the United Nations, the U.S. Census Bureau, and the World Bank. The United Nations' medium estimate predicts a world population of 6.2 billion by the same year.

TABLE III. *Protected Population of the World in 2000, under Three Fertility Assumptions (in millions)**

REGION	PROJECTED POPULATION			AVERAGE ANNUAL RATE OF GROWTH 1975-2000		
	High Assumption	Medium Assumption	Low Assumption	High Assumption	Medium Assumption	Low Assumption
Asia	3,455.8	3,410.6	3,321.3	1.61	1.56	1.45
Africa	811.2	781.5	770.2	2.81	2.66	2.60
North America	275.3	274.3	273.4	0.56	0.55	0.53
Latin America	564.1	551.7	537.0	2.37	2.28	2.17
Europe	532.8	537.2	525.1	0.48	0.51	0.42
U.S.S.R.	307.0	305.9	301.6	0.76	0.74	0.68
Oceania	28.7	28.4	27.9	1.47	1.43	1.36
TOTAL	5,971.9	5,883.4	5,756.4	1.59	1.53	1.45

* Source: Authors' calculations.

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TABLE IV. *Projected Population of the World in 2050, under Medium and Low Fertility Assumptions (in millions)*[*]

REGION	PROJECTED POPULATION		ANNUAL RATE OF GROWTH	
	Medium Assumption	Low Assumption	Medium Assumption	Low Assumption
Asia	4,731.4	4,557.8	0.09	0.05
Africa	1,405.6	1,328.1	0.53	0.44
North America	276.1	274.1	–0.31	–0.32
Latin America	816.1	782.6	0.20	0.15
Europe	520.2	518.3	–0.17	–0.17
U.S.S.R.	322.2	319.8	–0.12	0.14
Oceania	35.7	35.1	0.12	0.07
TOTAL	8,107.3	7,815.8	0.14	0.09

[*] Source: Authors' calculations.

A more recent projection by the U.S. Census Bureau places the figure at 6.4 billion, and 1977 projections by Dr. K. C. Zachariah of the World Bank predict 6.0 billion persons at the start of the next century. Since all of the studies make essentially the same assumptions about mortality rates, the disparities among the projections result from different estimates of future fertility trends. We predict, based on our own analytical model of fertility trends and the arguments underlying it, that the population in the year 2000 will be as much as 250 million less than the lowest of the current predictions, and 700 million less than that anticipated by the U.S. Census Bureau and the United Nations. Equally important, we anticipate a quite moderate growth rate for the world and for each continent. By the year 2000, the world will have largely brought the problem of high population growth under control, and at a population level substantially below what demographers had been expecting.

As surprising as may be the results of applying the family-planning argument to world-fertility projections for the year 2000, when it is applied to projections for 2050 the results are amazing. (See Table IV, above.) According to our "medium" projection, by the year 2050 world population will be 8.1 billion and the overall rate of world population growth will be almost zero. If the assumptions of the "low" projection prove correct, zero population growth will be reached in 2050, at a total population level of 7.8 billion people.

If the world—developed and underdeveloped nations alike—values the benefits of slower population growth sufficiently to invest in a sustained program of worldwide family planning, the population

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problem can be completely eradicated within 50 years or less—at a level of population far below that of the dire predictions of "standing-room only" or "mass famine." In fact, with a steadily expanding technology for food and energy production, health, community services, and other "good things in life," the planet could support the projected population at a very comfortable level of life.

Our predictions of future birth rates, and the population predictions to which they lead, are based upon the most recent data available on birth declines. *But we stress the fact that these projections are based upon the assumption that there will be a continuing, well-financed, and well-sponsored program of international family-planning assistance to developing countries over the next quarter-century.* It is expected that these programs will expand to cover all nations, and will improve within each nation. If this does happen, events should follow the course specified by our "medium" projections, and perhaps even approach our optimistic "low" projections. If family planning is neglected, weakened, or rendered ineffective by too much dilution with other programs, however, the course of birth trends could veer sharply upward toward our "high" projections. In fact, were family planning discontinued or substantially weakened, the world's population could well exceed even our highest estimate.

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A theory of non-market failures

CHARLES WOLF, JR.

ARGUMENTS between defenders of the market and advocates of government intervention to correct the market's shortcomings are characterized by a curious asymmetry. The asymmetry is neither in intensity of feelings and preferences—they are usually equally strong on both sides—nor in the intellectual appeal of each side's account of its idealized model—"perfectly" competitive markets on the one hand, and perfectly functioning governments on the other. The asymmetry lies instead in the existence of a ready-made, well-articulated theory of the market's shortcomings, and the lack of a comparable theory to explain the shortcomings of non-market systems.

The existing theory of market "failures" provides a powerful, accessible, and convenient instrument for attacking the market. This is not to say that all of the market's critics are aware of the theory's refinements, or even of its existence. In fact, the theory has become such an accepted part of modern discourse that those who use it need not so much as know it exists, let alone be familiar with its formal details. The situation recalls Keynes' comment about the unacknowledged power of ideas:

This essay is based on a more extensive treatment entitled, "A Theory of 'Nonmarket Failure': Framework for Implementation Analysis," published in the April 1979 issue of The Journal of Law and Economics.

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> Practical men, who believe themselves to be quite exempt from any intellectual influences, are usually the slaves of some defunct economist. . . . The power of vested interests is vastly exaggerated compared with the gradual encroachment of ideas.

"Market failure" theory is one such idea: powerful, accepted, and effective—a part of the oral tradition of informed and educated people, especially those of "liberal" persuasions. It is also largely true, even if, as we shall see, some inferences drawn from it are not.

There is no such guide for those who wish to consider the shortcomings of non-market mechanisms and activities. I define *non-market* activities as those undertaken by governments and other institutions whose sources of revenue come principally from taxes, donations, or other non-price sources, rather than from charging prices in markets—where buyers can choose what to buy, as well as whether, when, and how much. Governments are the principal non-market organizations; others include foundations, state-supported universities, churches, PTA's, and the Boy Scouts.

While non-market organizations receive abundant criticisms, these are usually anecdotal and inconclusive. Each instance of non-market shortcomings seems different and separate, so the whole somehow appears less than the sum of its parts. Indeed, the whole is hard to sum at all, because the parts are so varied.

A nice example of this asymmetry is provided in a recent book, *Politics and Markets,* by Professor Charles E. Lindblom. Lindblom tries to compare the shortcomings ("incompetences") of a market system and a non-market ("authority") system, such as government, when it comes to allocating resources and achieving efficient results. Though his attempt at even-handedness is admirable, it doesn't quite come off. His picture of the market's shortcomings is painted in greater detail and colored in darker hues. If his picture of the market's shortcomings verges on super-realism, that of the non-market's shortcomings is barely impressionistic.

Why does Lindblom's book treat non-market shortcomings more indulgently? Is the difference in treatment to be explained by his personal preferences? I doubt it. Even if this were the case, it would be less important, and certainly less interesting, than another explanation: There does not exist an articulate *theory of non-market failure* to organize and exemplify the knowledge we already have.

I want to outline such a theory to facilitate comparisons between the inevitable shortcomings of the market and the no-less-inevitable shortcomings of non-market efforts to remedy them. A more distant aim is to improve the choices that exist among leaving admittedly

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imperfect markets alone, supplanting them with non-market mechanisms (perhaps made less imperfect by anticipating their own likely shortcomings), and designing combinations of market and non-market mechanisms that will prove to be less imperfect than either alone.

How markets fail

Perhaps it would be helpful to begin with a brief recapitulation of the theory of market failure. The general explanation for the market's failure to produce satisfactory results is that incentives to individuals and groups (firms and industries) encourage behavior and outcomes that are otherwise not "preferable." "Preferability" is usually based on two criteria: efficiency and distributional equity. In brief, there are four specific types of market failure:

"Externalities" and Public Goods. Where economic activities create "spillovers"—whether benefits or costs—that are not, respectively, appropriable by or collectable from producers, then market outcomes will not be efficient, since these external benefits or costs don't enter the calculations on which production decisions are based. Chemical and noise emissions from aircraft or industrial activities are examples of "negative externalities," which provide a rationale for government intervention to compensate for the market's tendency to impose costs on those innocent bystanders who are neither producers nor consumers. On the other hand, the "non-measurable" social benefits of education are an example of "positive externalities"—leading to the conclusion that the market would be deficient in supplying enough of this service, if left to itself.

A distinction can be made between private goods with externalities, and "pure" public goods. The former term applies where *most* of the benefits or costs associated with output are, respectively, collected or paid by the producer, although *some* are not (for example, automotive transportation). "Pure" public goods, such as national defense, provide benefits that are almost entirely non-appropriable by the producer, or impose costs that are non-collectable, as in the case of crime. Externalities and public commodities are thus one condition—though neither always necessary nor sufficient—for government intervention.

Increasing Returns. The more typical economic activities are subject to diminishing returns and increasing marginal costs. But there are some economic activities—usually involving relatively high original capital investments that discourage competition—that are

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subject to increasing returns and declining marginal costs. In these cases also, the market mechanism will fail to generate an efficient outcome. Under conditions of decreasing marginal costs, the lowest-cost mode of production is by a single producer. In a free market, inefficiency will result, due to self-restricted output and weakened incentives for innovation. Government regulation to establish higher output and lower prices may then be a recommended course of action.

Market Imperfections. Where the price, information, and mobility characteristics of a real market depart significantly from the textbook version of "perfect" markets, outcomes will not be efficient—again providing a rationale for government intervention. Where prices and interest rates, for one reason or another, don't indicate relative scarcities and opportunity costs; where consumers don't have equal access to information about products and markets; where information about market opportunities and production technology is not equally available to all producers; or where factors of production are restricted in their ability to respond to such information—in such cases market forces won't allocate efficiently and the economy will produce below its capacity. Public policy may then aim to reduce, if not remove, these imperfections, by non-market actions that will increase the availability of information, lower barriers to entry and mobility, and so on.

Distributional Inequity. The term "market failure," in its limited, technical sense ignores the issue of distributional equity. Nevertheless, some consider distributional *in*equity as an example of market failure. In their view, a more equal income distribution is quite simply a particular type of public good. For that matter, any particular income distribution may be deemed socially and ethically unsatisfactory, and outcomes that diverge from the socially preferable distribution are, in that sense, likely to be considered a market failure.

Why non-markets fail

These sources of market failure provide the rationale for attempted non-market (i.e., government) remedies. Yet non-market remedies may themselves fail for reasons that can be formulated in terms similar to those that describe market failure. Just as some types of incentives encourage market failure, so too incentives influencing particular non-market organizations may lead to behavior and outcomes that diverge from ones that are socially preferable, according

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to the same criteria of preferability as those for markets—efficiency and distributional equity. Moreover, prospects for inventing effective non-market mechanisms to avoid non-market failure are not necessarily brighter than those for creating market mechanisms to avoid market failure. Where the market's "hidden hand" doesn't turn "private vices into public virtues," we are likely to have a hard time constructing visible hands to turn non-market vices into public virtues.

Public policies intended to compensate for market inadequacies generally take the form of legislative or administrative assignment of responsibility to a government agency for performing certain functions. Some familiar examples include: providing regulatory services (environmental regulation, radio and television licensing, food and drug control); producing "pure" public goods (national defense, space R&D), or quasi-public goods (education, postal services, health research); or administering transfer payments (Federal, state, and local welfare programs, social security).

Why are these non-market functions likely to result in specific types of non-market failure? The answer lies in the distinctive supply and demand characteristics that differentiate non-market outputs from market outputs.

On the supply side, there are several such characteristics. *First, the "products" of non-market activities are usually hard to define in principle, ill-defined in practice, and extremely difficult to measure independently of the inputs which produce them.*

Non-market activities generally result in intermediate products which are, at best, only remote proxies for the "real" or final intended output. For example, environmental-impact precautions enforced by the Environmental Protection Agency have a final intended output that includes esthetics and public health; forces and equipment developed and deployed by the military services are ultimately intended to produce national security. In the same way, the education of students at different levels in the public school system, research projects funded by the National Institutes of Health, and cases processed and payments disbursed by the social-welfare agencies, are all only intermediate products. Units for measuring the final products of such activities are usually non-existent, and it is often hard even to distinguish "more" from "less." Consider, for example, the difficulty of measuring or specifying "quantities" of national defense, or education, or even regulatory services, in terms that are *separate* from the inputs used in producing them. As a result, measuring outputs by their inputs becomes accepted in gov-

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ernment because measuring outputs directly is such a difficult matter.

Another characteristic of non-market "supply" is that evidence of output quality is elusive, in part because the information that in the market would be transmitted by consumer behavior is missing. Consider, for example, the difficulty of determining whether the "quality" of education or environmental regulation is "better" or "worse" now than two or three years ago. Moreover, such information as may be provided concerning "consumer" (i.e., citizen) reactions tends to be too little and possibly non-representative (letter-writers may be cranks, but the non-writers aren't thereby implying approval), or too gross and too late—such as information provided through Congressional hearings, or the ballot box—to be an effective means of monitoring output quality. To monitor output quality requires precise, representative, and regularized "feedback," and this is hard to realize for non-market output. Congressional committees, the Congressional Budget Office, ombudsmen, consumer groups, voter and consumer surveys, and other "watchdog" devices help, but their separate and collective effectiveness in monitoring output quality inspires only limited confidence.

The absence of sustained competition is a third factor contributing to the difficulty of evaluating the performance of non-market production. Non-market activities are usually conducted by a single agency whose intergovernmental monopoly in a particular field is legislatively mandated, administratively accepted, or both. It is rare that this exclusivity is contested. Where it is (e.g., between the Air Force and the Army in providing battlefield air support), resolution is frequently unrelated to output quality.

Finally, non-market activities generally have no "bottom line" for evaluating performance comparable to the profit-and-loss statements of market activities. Nor, in the case of non-market output, is there a reliable mechanism for terminating non-market activities if they are unsuccessful.

Perhaps the closest analogy to a market "test" in the case of non-market output is military performance in war. Because it faces "competition" in war, the military does have special incentives to produce a quality product. Yet even in this case, the effectiveness of these incentives is diminished by a paradox. The more successful is potential military performance, the more likely is military conflict to be deterred; and, the more effective is deterrence, the less seriously is the risk of war likely to be taken—and hence the weaker it becomes as an incentive for high performance.

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There are also distinctive characteristics applying to the *demand* for non-market activities, and to the process by which these demands become effective. *One such characteristic is the enormous expansion over the past few decades of public awareness of the shortcomings of market outcomes*—an awareness that has resulted from the activity, perhaps hyperactivity, of information media, environmental groups, and consumer organizations. Increased awareness of monopolies, oligopolies, imperfect markets, negative externalities such as pollution, and distributional inequities has resulted in intensified and politically effective demands for remedial action by government. In the political process, which mediates these demands, *rewards often accrue to legislators or executives who articulate and publicize problems and from proposing solutions rather than assuming responsibility for their implementation.* In part because of this reward structure, *political actors are usually much more interested in near-term consequences than in long-term consequences.* Furthermore, there is often an appreciable gap between the time-horizons of political actors and the time required to study and understand a particular problem—such as a market inadequacy—in order to see whether a practical remedy exists at all.

The result of these characteristics is often a premature, but politically effective demand to establish public programs and to produce some non-marketed output as an apparent or symbolic response to the originally perceived market inadequacy. The "model cities" programs of the 1960's, and the decision in the early 1970's to emphasize "targeted" cancer research, are examples. These cases and others illustrate that the political effectiveness of public demands can lead to non-market activities with infeasible objectives and redundant costs.

The supply and demand characteristics of the non-market sector are fundamental to the theory of non-market failure. They provide an explanation, clues about where to look for specific types and sources of such failure, and a basis for formulating a typology of non-market failure analogous to that which already exists for market failure. In both cases, the "failures"—whether market or non-market—are evaluated against the same criteria of success. Non-market remedies "fail" to the extent that they, too, result in outcomes that depart from the efficiency or distributional goals by which market outcomes are judged to fail. But the ways in which non-market solutions "fail" differ from those in which market outcomes fail. There are four types of non-market failure. They result from the distinctive demand and supply characteristics of non-market output.

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"Internalities" and "private" goals

All operating agencies require, to conduct their activities, certain explicit standards. The requirement does not principally arise from an agency's need to justify its activities externally, but rather from the practical problems associated with internal, day-to-day management and operations: evaluating personnel; determining salaries, promotions, and perquisites; comparing sub-units within the agency in order to help in allocating budgets, offices, parking space, and so on. Lacking the direct performance indicators available to market organizations (from consumer behavior and the profit-and-loss bottom-line), public agencies must develop their own standards. *These standards are what I will call "internalities": the goals that apply within non-market organizations to guide, regulate, and evaluate agency performance and the performance of agency personnel.* I refer to these internalities synonomously as "private" goals because they—rather than, or at least in addition to, the agency's "public" purposes—provide the motivations behind individual and collective behavior. This structure of rewards and penalties constitutes what Kenneth Arrow refers to as "an internal version of the price system."

It is true, of course, that market organizations also must develop their own internal standards in order to regulate the same quotidian functions required for managing any organization. But there is an important difference. The internal standards for market organizations are generally related, even if indirectly, to meeting a market test, to responding to or anticipating consumer behavior, to contributing to the firm's "bottom-line." Sales, revenues, and costs materially affect the internal standards of market organizations. For market organizations, the "internal version of the price system" must be connected to the *external* price system. If the two are disconnected, the survival of a market organization will be jeopardized by the response of consumers, competitors, or stockholders, even in imperfect markets.

The situation of non-market organizations is different because the supply and demand characteristics associated with their output are different. Because measures of output are often so hard to define, because feedback and signalling from "consumers" are lacking or unreliable, internal standards for non-market organizations can't be derived from these sources. Furthermore, because there are usually no competing producers, the incentive to devise internal standards that will control costs is weakened. Under these circumstances, non-market agencies often develop "internalities" that bear no very clear

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or reliable connection with the ostensible public purpose which the agencies were intended to serve.

Internalities affect the results of non-market activities as predictably and appreciably as externalities affect the results of market activities, in both cases causing divergences between actual outcomes and socially preferable ones. The existence of externalities means that some *social* costs and benefits are not included in the calculus of *private* decision makers. The existence of internalities means that "*private*" or *organizational* costs and benefits *are* included in the calculus of *social* decision makers. Whereas externalities are central to the theory of *market* failure, what goes on *within* public bureaucracies—the "internalities" that motivate their action and performance—are central to the theory of *non*-market failure.

Whether the non-market failure associated with internalities, with its intensely inflated total costs, is greater or less than the market failure associated with externalities is an analytically interesting and operationally crucial question. Unfortunately, there is no decisive answer applicable in all cases. Which failure is the greater, the non-market or the market, depends on whether the supply distortions created by internalities in non-market output are larger or smaller than the demand distortions created by externalities in market output.

Of the specific types of internalities that often accompany non-market activities—and bring with them non-market failures and distortions—let us examine three:

Budget Growth. Lacking profit as a measure of performance, a non-market agency may view its budget as the proxy goal to be maximized. The budget-maximizing internality may originate at the time non-market organizations are first established because new organizations have to build up staff and facilities to handle their assigned responsibilities. But through a simple, inertial process, the proxy goal is often retained even after agency operations are established; budget size becames accepted and retained as a convenient indicator of agency performance. Performance of the agency's personnel and sub-units is then evaluated in terms of their contribution to expanding its budget, or protecting it from cuts. Incentives within the agency will reward participants for justifying costs rather than reducing them, a characterization that has been applied to the Defense Department and the military services, but surely is not confined to them.

The following instruction from a then-Chief of Naval Operations to subordinate commands shows how government budgetary proce-

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dures may be translated into internal agency pressures to spend rather than save resources:

> Fiscal Year 1972 outlay targets promulgated . . . as part of the President's budget for FY 1973 are over $400 million above targets in the earlier FY 1972 budget . . . Difficulty of achieving these targets during remaining months of 1972 fully appreciated, but importance of avoiding shortfall in meeting newly established FY72 targets to avoid resultant adverse effects on anticipated FY73 outlay ceiling *dictates need for top management attention. Anticipate any shortfall in FY73 outlay target could be translated into program loss under FY 1973 outlay ceiling.* [Emphasis added.]

Stripped of bureaucratic jargon, the CNO's message is advising subordinate commanders to find ways to spend funds quickly, and plainly implying that he intends to evaluate their performance in terms of how well they succeed!

Variants of the budget goal can lead to similar non-market failures. For example, James Rosse has informed me that managers of the West German public television and telephone system have asserted that their primary objective is to raise rates and sales so as to maximize gross revenues. This, they explained, was necessary to "finance their further growth"! If revenue maximization is the internal performance standard, output will rise as long as marginal revenue is even minimally positive, again resulting in non-market failure to produce a socially efficient outcome.

When an American businessman was asked in 1972 to assume management responsibility for the Postal Service, *The Los Angeles Times* reported that he found that the Service's vast and growing financial predicament was due, in part, to its system of determining pay scales for postmasters. "Postmasters," the new appointee said, "were actually paid [based] on how many employees they had, how many branch offices they had, or how many trucks. . . . Can you imagine a greater disincentive [to efficiency]?"

A distinctive variant of the budget internality is the the tendency of public agencies, eschewing or precluded from profit maximization as their objective, to try to maximize the size of their employee staffs. For example, British Rail, a nationalized industry and one of the half-dozen largest employers in Britain, operates under acute pressure from trade unions and government to maintain high employment levels and avoid "redundancies." Operating under such incentives, featherbedding by managers and foremen becomes a rewarded practice. High employment per unit of service, rather than high labor productivity, is aspired to—resulting once again in non-market failure.

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Technological Advance. Compatible with the budget internality is one favoring "advanced," "modern," "sophisticated," or "high" technology.[1] Non-market agencies, whose activities might be justified in the first instance by one or more of the acknowledged sources of market failure, may establish advanced technology or technical "quality" as an agency goal. In medicine, a bias toward "Cadillac" quality health care may result, and in the military a sometimes compulsive tendency toward development and procurement of the "next generation" of sophisticated equipment. Explicit consideration of whether these advances are worth their extra costs is regarded as inappropriate because the operating agencies either are not intended to maximize net revenues (in the case of hospitals), or earn no revenue since they are producing a public good (in the case of military services). One example is provided by the British National Health Service's purchase of disposable syringes when these gadgets were invented in the late 1960's. They were a novelty; only later was it demonstrated that repeated use of durable syringes had been accompanied by equal or lower rates of infection, and at lower cost.

Perhaps especially in the military services is the development and deployment of systems embodying the latest technology taken to be an organizational imperative. As one practitioner, Richard G. Head, has observed, "In the Air Force, advancing technology has become a part of the professional ethic." Nor is the technological ethic confined to the Air Force. Organizational pressures toward sophistication, complexity, and technological novelty play a powerful role in the acquisition process of other services as well. Nuclear-powered supercarriers are no less an illustration of a technological internality than are the FB-111 or the F-15 aircraft.

The American space program is pervaded by a similar imperative —indeed, one legislatively encouraged. From NASA's legislative mandate for "maximum utilization of the scientific and technical results of the space effort for non-space purposes," it has been a short step to internal agency norms and incentives that favor the development of novel and complex technology with little regard for its efficiency.

The technological internality can have perverse consequences, not only in excessive zeal for what is complex and novel, but in mindless opposition to what is simple and familiar. In the Vietnam War,

[1] This is not the place to attempt to define precisely what is meant by "high technology," a subject richly clothed in confusion in both popular and professional discussion. To consider whether the term does, or should, refer to products or processes, novelty or efficiency, costs and/or effectiveness, would take us too far afield. For present purposes, I will conveniently assume that high technology, like a camel, is easy to recognize if difficult to describe.

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by far the most efficacious source of American fire-power came from use of a modified propeller-driven cargo aircraft, that had a long "loiter time," a slow stalling speed, and could be used to deliver guided munitions and airborne artillery. Yet turning the "gunship" concept into an operating system was delayed five years, largely because of military opposition to what was viewed as a technologically retrograde step!

A bias *against* new technology can, of course, just as easily lead to non-market failure. Parts of the American educational system, for example, seem to resist even the development and experimental use of such new technology as video-taping for presentations to large classes, computer-aided instruction, and performance contracting—all of which might reduce the demand for teachers. Indeed, the education industry's behavior often suggests the opposite of the technological-internality maxim that "new and complex is better." While a maxim that "familiar and simple is better" may be *generally* preferable, its rigid application can also have perverse effects on performance. The education sector's resistance to technological advance is similar in quality, although opposite in direction, to the military's frequently uncritical enthusiasm for technology. In both cases, a "private" organizational goal, or "internality," contributes to non-market failure.

Information Acquisition and Control. Another element in the utility functions of some non-market organizations is information. Frequently in non-market (and market) organizations, information is readily translated into influence and power. Consequently, information becomes valued in its own right—an internality for guiding and evaluating the performance of agency members.

Acquisition and control of information may be particularly important as a goal for agencies involved in foreign policy. An example is Henry Kissinger's use and adaptation of the National Security Council framework and the Commitee of 40 to acquire exclusive information, and hence increase the influence of the NSC in the 1968-73 period. The careers of NSC staff members waxed or waned in accord with their ability to understand and adjust to this particular internality and the behavioral incentives it created. Staff members got ahead by demonstrating their ability to collect and protect new information for the "private" use of the NSC—activities Kissinger's organizational and procedural rearrangements made possible. Information available *only* to the NSC seemed to have become an end in itself, an internal standard motivating staff behavior.

In associating these specific types of "internalities" and "private"

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goals with *non*-market activity, I do not imply their absence from market activity. For the usual reasons pertaining to more or less imperfectly competitive markets—which, of course, are the only markets that exist in the real world—these characteristics also appear, to some extent, in market activity. But their influence there is distinctly more limited than in non-market activities. Price competition among firms and products, as well as competition within firms among managers seeking promotions, limits the role of cost-inflating internalities in the market.

Internalities are thus elements of the "private" goals of producers: "private" in the sense that their role is primarily that of satisfying interests and motives of non-market producers and producing organizations, rather than contributing to the public sector's intended final output. Moreover, internalities are likely to grow over time if and as non-market agencies succeed in building special constituencies within Congress and the public that are more immediately concerned with their activities than is the broader taxpaying public. Internalities and "private" goals, which are often quite remote from an elusive final product, are as frequent and important in non-market activities as externalities are in market activities.

Other types of non-market failure

Redundant and Rising Costs. Whether policy takes the form of regulation, administering transfer payments, or direct production of public goods, *there is a tendency for non-market activities to exhibit redundant costs, and for costs to rise over time.* If technological possibilities exist for lowering costs, raising productivity, or realizing economies of scale, these opportunities are likely to be ignored or exploited less fully by non-market than by market activities. Non-market failure is the result, in the form of technically inefficient production and redundant and rising costs.[2]

The sources of these as of all non-market failures lie in the demand and supply characteristics associated with non-market output. As public awareness of the inadequacies of market outcomes grows, demands for remedial action intensify. Dissatisfaction with existing circumstances may result in misperceiving the cause as a market failure, rather than something more intractable such as genetics, physical laws, or resistant socio-pathologies. Since rewards frequent-

[2] The term "redundant" has a different meaning here from that referred to earlier. Clearly, retaining low productivity to avoid *employment* redundancies, as in the case of British Rail, is one source of *cost* redundancies.

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ly accrue in the political arena for publicizing problems and legislating or initiating action that can be labeled remedial, non-market activities may be authorized to pursue quite infeasible objectives. Objectives may be internally inconsistent: for example, bringing all students' reading scores up to the mean; or minimizing the time individuals are unemployed while maximizing their earnings; or providing that foreign aid accord with "need" and also encourage development. Or objectives may be specified for which no known technology exists: providing "dignified" work for people with low IQ's, or training people with IQ's of 70 to be draftsmen, or achieving a cure for cancer by 1980.[3] Redundant costs will result.

Redundant costs may also result from the difficulty of measuring output, and the resulting need, as well as latitude, to establish agency goals—the "internalities" referred to earlier—as proxies for non-market output. The cost-inflating effect of internalities tends to endure because non-market activity is conducted without competition. And redundant costs may rise over time because of the absence of a reliable termination mechanism for non-market output—a deficiency that allows agency managers to indulge their penchant for cost-inflating internalities.

Those responsible for market activities usually have an incentive to lower cost because of opportunities for additional profits, or because of actual or potential competition. By contrast, those responsible for non-market production may be spurred to increase costs or staff size, or to increase output even if its incremental value is less than incremental costs—as in the German TV case cited earlier. These tendencies toward redundant and rising costs were well described by a departing director of the United Nations Food and Agriculture Organization with reference to that organization:

> Eighty percent of its budget is destined to pay for a gigantic centralized bureaucracy in Rome, 11 percent to put out publications that no one reads, and the remaining 9 percent to holding meetings and for travel expenses that are largely unnecessary.

Derived Externalities. Government intervention to correct market failure may generate *unanticipated side-effects, often in an area remote from that in which the public policy was intended to operate.* Indeed, there is a high likelihood of such derived externalities be-

[3] Energy Secretary James R. Schlesinger's 1968 comment in the *Journal of Law and Economics* is all the more insightful because it preceded his own not inconsiderable role in providing evidence in its support: "New agencies, from which better things might be hoped, are put under unremitting pressure to produce glamorous new programs—before the necessary analysis has been performed."

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cause government tends to operate through large organizations using blunt instruments whose consequences are both far-reaching and difficult to forecast. In the Russian proverb, "When elephants run, other animals tremble."

The occurrence of unforeseen externalities is abetted by both demand and supply characteristics associated with non-market output. The buildup of strong political pressures for non-market intervention may create an effective demand for action before there has been adequate knowledge or adequate time to consider potential side-effects. Furthermore, derived externalities are generally more likely to occur later than sooner. Hence, the short time-horizon and high time-discounts of political actors predispose them to overlook potential externalities. And finally, the frequently ill-defined nature of both the quantity and quality of particular non-market outputs limits both the motivation and the means for thinking seriously about potential unintended side-effects.

Of course, cost-benefit analysis tries to take account of such externalities, for example, by calculating the benefits of hydroelectric projects to include flood control, irrigation, and "feeder industries," as well as electric power. But the limitations of such analysis are numerous and well-known, in part due to the unanticipated nature of some of the side effects.

Derived externalities are hard to anticipate because the consequences of public policies may be far removed from the target. For example, when standards for noise emissions were established by the Environmental Protection Agency to compensate for the market's failure to allow for these externalities, no one anticipated that one result would be strains in America's relations with the French and British over the Concorde. That an embargo on soybean exports to Japan in 1973 would have impact on U.S. military-base negotiations in that country was also not anticipated (although perhaps it should have been). And that longstanding "Buy America" and other trade restrictions—once again, presumably based on a need for public-policy intervention to compensate for market inadequacies—would make more difficult a move toward standardization and rationalization of weapons systems and forces in NATO was also difficult to forecast.

Another instance of derived externalities is provided by public regulation of utilities. Profits allowed utilities are typically calculated on the basis of return on capital, with the intention of holding prices closer to marginal cost, and thereby overcoming one source of market failure. But a derived externality often results as an unintended

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consequence. The regulated utilities respond by inefficient substitution of capital for labor to raise their allowable profit-base. The resulting non-market failure may equal or exceed the market failure that regulation was intended to remedy.

Of course, derived externalities may be positive rather than negative. Construction of a North Sea barrier in the Veere inlet, for the safety of the Zeeland population in The Netherlands, meant the loss of mussel and oyster beds, but also the start of trout raising; and, though the barrier ended ocean-going traffic, it also generated a recreational industry based on smaller vessels in the new Veere Lake. None of these benefits was anticipated when the Veere barrier was originally decided upon.

All of these examples represent a type of non-market failure: externalities—whether negative or positive—deriving from a public policy intended to compensate for an existing market failure. They also share the characteristic of having been unanticipated at the time the policy was initiated. Clearly, policy choice would be improved if such derived externalities could be taken into account at the time policies were under consideration.

Distributional inequity in non-markets

Non-market activities, whether intended to overcome the distributional inequities of market outcomes, or to remedy other inadequacies in the market's performance, may themselves generate distributional inequities. The resulting inequities are often indexed on power rather than income or wealth.

Public-policy measures place authority in the hands of some to be exercised over others. Whether the authority is exercised by the social worker, the welfare-case administrator, the tariff commissioner, the utilities regulator, the securities examiner, or the bank investigator, power is intentionally and inescapably lodged with some and denied to others.

The power may be exercised with scruple, compassion, and competence. It may be subject to checks and balances, depending on the law, on administrative procedures, on the information media, and on other political and social institutions. Nevertheless, such redistribution of power provides opportunities for inequity and abuse.

Corrupt practices are one type of abuse: government contracts obtained through bribery, perhaps illustrated by the case of Lockheed's F-104 sales abroad, or granting import licenses and preferen-

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tial exchange rates to relatives, friends, or associates of bureaucrats and politicians. Less conspicuous inequities can result from the decisions of welfare authorities in classifying cases in ways that confer or withhold aid to fatherless families with dependent children or to potential recipients of aid for the aged. Anecdotes reflecting the vagaries, perversities, and inequities associated with welfare programs are too numerous to recount, as well as too inexact to yield precise conclusions.

In the specific case of public policies intended to redistribute income, a frictionless, impersonal, and automated redistributive mechanism might avoid the inequitable distribution of power that can result from discretionary authority. But even a sharply progressive tax system—which is intended to serve this purpose—reserves considerable room for auditors to exercise judgment and hence power. The same applies to the redistributive expenditure programs mentioned above. One need not ascribe to those who administer public programs less humane or more fallible motives than the average to contend that new distributional inequities may result from efforts to rectify market inadequacies in distribution or some other area. This is not to deny the presumption that the distributional inequities created by progressive taxes or by redistributive expenditure programs are smaller than the original inequities that such measures relieve.

Non-market activities may also result in distributional inequities indexed on income. It is a truism that any public policy will benefit some and take from others. Indeed, this will ensue *whether or not* the particular market inadequacy that gave rise to non-market intervention was explicitly distributional in character. Public-policy measures increase the demand for certain skills, services, and products; they levy costs on others. Those who have those sought-after specialties will benefit at the expense of those who do not, *by comparison with the previously prevailing situation.* If public expenditures are increased for defense or education, organizations and individuals specializing in producing those outputs will realize increases in their real income, since defense is a public good and education a private good with large externalities.

Consequently, groups that are potential beneficiaries of a public-policy measure intended to compensate for *market* failure can be expected to urge, and very likely believe, that more compensation is needed to bring about a *socially* optimal outcome than others would estimate. Educators, accepting the argument that *some* government subsidy is necessary to take account of positive externalities

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ignored by the market, are likely to argue that these externalities are greater than was originally thought and hence warrant a large subsidy. A similar point applies to the professional and business community involved in aerospace technology, research, and development. The result is likely to be non-market failure in the form of a larger public subsidy or a more protective regulatory policy that benefits well-organized "constituencies." The result is a distributional inequity from the standpoint of those who are not so well organized —even though they may have originally acknowledged the existence of a market failure and the legitimacy of non-market intervention to correct it.

The role of non-market activities in producing distributional inequities, whether maldistributions of power or of income, derives from specific demand and supply characteristics associated with non-market output. *On the demand side, the principal causal characteristic is heightened public awareness of the inequities generated by the market* and the resulting clamor for redistributive programs, often without prior consideration of the inequities that may be generated by these programs themselves.

On the supply side, the principal characteristics leading to distributional inequities are the typical monopoly of non-market output in a particular field and the related absence of a reliable feedback process to monitor agency performance. In the absence of competing producers, those who feel adversely affected, whether as victims of arbitrary administrative authority or as general taxpayers, have notably less direct and less effective means of expressing their dissatisfaction than is available to consumers of marketed output who can withhold purchases or shift them to other producers. By contrast, those who realize special distributive *benefits* from particular non-market activities are likely to have, or to create, *more* direct and more effective means for expressing their support, through organized lobbying and advocacy, than is available to consumers in the marketplace. This does not imply that the inequities of the market are less than those of the non-market, but it does suggest there is an identifiable process by which inequities can result from non-market activities, as they are acknowledged to result from market activities.

A corrective theory

The several types of non-market inadequacies can be summarized in comparison with the inadequacies characterizing the market. (See the table on the following page.)

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Market and Non-market Failures

MARKET	NON-MARKET
1. Externalities and public goods	1. "Internalities" and "private" goals
2. Increasing returns	2. Redundant and rising costs
3. Market imperfections	3. Derived externalities
4. Distributional inequity (income and wealth)	4. Distributional inequity (influence and power)

These parallel categories are suggestive, but should not be misunderstood. *The inadequacies or "failures" of non-market activities are not exact analogues of those associated with market activities.* The "externalities" on the market side are qualitatively related to the "internalities" on the non-market side only in the sense that each is a major source of "failure" in the market and non-market contexts, respectively. (Indeed, "externalities" in the market sector are conceptually closer to "derived externalities" in the non-market sector than either is to its horizontal neighbor in the two lists.)

Two comments apply to both lists. First, for the several types of market and non-market failures, it is much easier to estimate signs than magnitudes. Estimating magnitudes requires careful consideration of specific cases and contexts. Moreover, it is no easier to determine the magnitude of, say, the (negative) national security "externalities" associated with U.S. reliance on Middle Eastern oil, than to determine the specific "internalities" that affect the behavior of the U.S. Air Force and to calculate the magnitudes of those behavioral effects. Or, to take a more tractable example, it is probably no more difficult to estimate the "derived externalities" (negative as well as positive) resulting from environmental regulation, than it is to estimate the (negative) "externalities" resulting from unregulated strip mining, or from noise emissions near metropolitan airports.

It should also be noted that the types and sources of market failure indicate the circumstances in which government intervention is worth contemplating, and in which alternative policies are worth analyzing as possible remedies. Similarly, the types and sources of non-market failure indicate the circumstances in which government intervention may itself misfire, and in which other potential correctives are worth analyzing as possible remedies for the likely shortcomings of government intervention.

What is the "bottom line" on non-market failure? Like that of market failure, it must be entered in red ink, although its numerical sum is unclear. Whether the red-ink entry for the one is greater or less

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than that for the other can't be answered in general terms. Sometimes one may be greater, sometimes the other. The answer will depend on the specifics of particular cases.

Even if there is no general answer, increased awareness of non-market failure and its sources and manifestations may have beneficial effects. (After all, the allegedly therapeutic effects of psychoanalysis are built on the same hopeful premise.) With such a theory as a guide, comparisons (such as Professor Lindblom's) of market and "authority" systems should be able to articulate in a more balanced way the "incompetences" of both systems. It should also permit policy analysts to make better evaluations of the available policy alternatives. Where there is market failure, policy studies should—but typically do not—consider explicitly whether intervention is desirable at all, in light of prospects for non-market failure. The cure may be as bad as the illness. And where it is concluded that intervention *is* warranted, policy design and analysis may be improved by having clues as to where and how future pitfalls and miscarriages are likely to occur.

The existing theory of market failure provides a useful corrective to the theory of perfectly functioning markets. In a similar sense, the theory of non-market failure is intended as a corrective for the implicit theory of perfectly functioning governments.

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CURRENT READING

Ideological Psychology

Most social scientists have abandoned the belief that their discipline is or can be entirely value-free. It is by now conventional wisdom that a scholar's predispositions inevitably bias his research in innumerable ways. This realization has not thrown social scientists into the crisis of self-doubt one might have expected. On the contrary, many social scientists have willfully allowed their values not merely to influence but to guide their research. There is a growing tendency among scholars addressing "relevant" social issues—sex roles, the relation between race and intelligence, etc.—to avow openly their political interests, and to use the methods and forms of social science to advance an ideological position. Underlying this willingness to let values "contaminate" supposedly scientific research is the assumption that the effects of bias are less pernicious when one's ideological interests are explicit rather than implicit.

Concern about the scientific integrity of the profession is the underlying theme of a recent issue of *Social Research* (Autumn 1978), in which Joseph Adelson has assembled a collection of papers on "Ideological Bias in Psychology." In his introduction to the issue, Adelson argues that standards of scholarly probity should still be respected, even if completely value-free social science is a chimera.

> The doing of science and scholarship requires—in practice—a determined tentativeness of conviction, a willingness to suspend belief in the face of disconfirming evidence. That is hard enough to achieve even in areas where values are not significant; given the imperiousness of the political passions, one would question whether data collected in the service of belief can long resist its intrusion.

Frankness about one's ideological bias cannot compensate for a lack of scientific conscientiousness, Adelson warns, because values—acknowledged or unacknowledged—"can so corrupt evidence as to make certain bodies of research suspect, if not entirely worthless."

Alicia F. Lieberman's article, "Psychology and Day Care," documents the case of an entire field of research that has been corrupted by bias. The ideological animus behind studies of the psychological effects of day care has blinded social scientists to the true complexity of the phenomenon under study.

> The reality of day care is so multiform that any of its manifestations can be used to support almost any point of view. It is not surprising

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> then that supporters of day care base their arguments on centers that are carefully designed to meet children's needs, while detractors focus on the shameful conditions that prevail in many such institutions.

Partisans are equally selective in marshaling support for their positions from child-development research. Opponents of day care quote findings about the damaging emotional effects of maternal separation in the early years of childhood. But advocates of day care cite equally compelling research about the importance of a stimulating environment in a child's cognitive development, and the benefits of encouraging a "wholesome detachment from a mother." Social scientists, Lieberman contends, have studied day care, not with an open mind, but intent on proving that reality confirms their preconceived preferences.

> As a result, the investigations that have been carried out attempted to confirm or reject the null hypothesis rather than to address more complex issues such as which features of day care are related with which developmental results.

Psychologists' predispositions can intrude even more subtly in the study of personality. "How does one label that trait—" Adelson asks, "spontaneous or impulsive, well organized or rigid? Which among several possible statistical tests ought one to employ?" Stanley Rothman and S. Robert Lichter dramatize these problems in their critique of the psychological portrait of student radicals that emerged from extensive research in the 1960's. The widespread conclusion that student activists were "unusually psychologically healthy" was inordinately influenced, if not determined, by psychologists' biased definition of mental health and the limitations of the methodology they chose to employ.

For example, many psychologists characterized young radicals as more "autonomous" and independent-minded than their non-activist peers, usually on the basis of data drawn from student questionnaire responses. The widely-used Omnibus Personality Inventory identified students as "autonomous" if they responded favorably to statements criticizing established social institutions. However, as Rothman and Lichter note, "leftist students responding in this fashion might merely be conforming to the values of their parents or peers, thereby demonstrating no more autonomy than do students who are less critical of social institutions." Many researchers also cited student activists' greater "capacity for group participation" as one aspect of their superior psychological health. However, little effort was made to define the precise psychological significance of that personality trait. Rothman and Lichter point out that those social scientists would probably not regard active Stalinists, demonstrating the same "capacity for group participation," as psychologically healthy.

Bias afflicts psychologists' findings even when they are not studying such explicitly political subjects as day care and political activism. Robert T. Hogan and Nicholas P. Emler, in their article "Biases

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in Social Psychology," indicate the inherent limitations of conventional laboratory experimentation: Studying social behavior in what is virtually a social vacuum, experimental psychologists have "disallowed the inclusion of such factors as institutional setting, social-group membership, and social position as research variables." The experimental setting can be regarded as an accurate simulation of social reality only if one accepts the rationalist, individualist view of human nature that is prevalent among social psychologists: the view that man is an essentially asocial being, a rational "information processor."

> The experimental study of socialization demonstrates how methodology can "construct" reality. The experimental paradigm for socialization as exemplified by social-learning theory involves confronting a child with an adult model. The adult and child are strangers, so their relationship is not part of any existing relationship; moreover, the adult's actions are programmed in advance—meaning that, in principle, there is no interaction. From these experiments socialization is seen as a process in which a child learns habits through imitation of an adult. This conclusion is therefore manufactured by an empirical procedure which simply excludes the possibility of alternatives.

The systematic exclusion of possibilities may be unavoidable in social-science research. But in the recent trend to use research as an instrument of ideology, Joseph Adelson sees a worrisome "loss of scientific self-restraint"— a loss of professional will to minimize at least the influence of bias and to remain open to alternative explanations.

—Janet Hook

"Take Good Care of Yourself . . ."

In the best "button up your overcoat when the wind is free" tradition, a Federal agency offered this helpful advice to last winter's motorists. Unaccountably, the advice, which appeared in *Business Week* (January 8, 1979), included not a single reference to chicken soup.

> The Federal Disaster Assistance Administration recommends keeping these items in your car for trips during wintry months: a sleeping bag or at least two blankets per occupant; a stack of newspapers for extra warmth; one two-pound coffee can for sanitation and another to burn candles in for heat; candles, matches, wool caps, mittens, overshoes, facial tissues, and a first-aid kit.
>
> Also carry a small sack of sand in your car, a shovel, a windshield scraper, pliers, a screwdriver, an adjustable wrench, a flashlight, a transistor radio with extra batteries, and a set of battery booster cables.
>
> Nonperishable food such as canned nuts and dried fruit and a container of drinking water complete the basic winter car kit. You may find other useful gear in camping stores, such as catalytic or infrared heaters and other practical foods.

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"Worker Capitalism"?

In what *The New Republic* (January 6, 1979) has billed as "An Experiment in Worker Capitalism," a group of Youngstown, Ohio, religious leaders called the Ecumenical Coalition has organized an effort to save 4200 jobs imperilled by the partial closing of a steel mill. The plan, described by writer Robert Howard as a "new big idea," somehow seems a bit older than that.

> The Coalition . . . contacted experts outside the immediate community whose legacy is largely that of the New Left. Economist Gar Alperovitz, director of the Washington-based National Center for Economic Alternatives, proposed that the Youngstown people risk something big—a massive project to buy the Campbell Works and to run it through a corporation owned by the workers employed at the mill, members of the Youngstown community, and a minority of outside investors.
>
> Alperovitz's Center got $300,000 from the Federal government for a feasibility study. It concluded that reopening the Campbell Works, "though difficult, is technically feasible" . . . . The estimated start-up cost: $535 million over eight years. Alperovitz recommended that the Federal government help the community-ownership experiment with a $15-million "Urban Action Development Grant" from HUD, $300 million in Federal loan guarantees and the guarantee of a small piece of Federal steel purchases.

Nuclear Power

In a lengthy interview with Richard Brookhiser for *National Review* (February 2, 1979), Bernard L. Cohen, a professor of physics at the University of Pittsburgh, discussed the evidence surrounding the objections raised against the use of nuclear power. Most of the fears about its use, he maintained, are greatly exaggerated. The risks involved in the disposal of nuclear wastes, for instance, are in reality relatively small, according to Cohen.

> The ground is full of natural radioactivity already, and by putting our waste down there, we're just increasing the radioactivity in the ground by something like one part per million. The radioactivity in the ground —except for that which is within a few feet of the surface—is doing very little harm; and it can be shown that it's not causing even one fatality a year in the United States. So adding to it by one part per million is not very likely to do any harm.
>
> Indeed, people who worry about effects over hundreds of thousands of years might take heart from the fact that in using nuclear power we are burning up uranium, which is responsible for a lot of the natural radiation exposure we're talking about. After a few hundred thousand years, the number of lives we save by burning up this uranium is a hundred times larger than the number of lives we would stand to lose through problems connected with the waste. In other words, people living hundreds of thousands of years from now will be exposed to less radioactivity as a result of our use of nuclear power today. . . .

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At first, it's extremely toxic—one one-thousandth of an ounce would probably kill you. But after a few hundred years, you would have to eat a quarter-pound to have your health affected. Now that's not, actually, very toxic; there are many things we keep in our homes, and there are natural rocks in the ground, like cinnabar, of which one ounce would be enough to kill you. So the danger of buried waste divides into two problems—a short-term problem which last for a few hundred years, during which the waste is quite toxic; and a long-term problem, which goes on for hundreds of thousands of years.

What scientists worry about most is that, somehow, buried waste will come into contact with ground-water, and will be dissolved, carried through the ground with the water, and eventually be brought into food and water supplies. To prevent this, the waste will be buried in a rock—probably salt—in which there is negligible ground-water, and in which geologists are as certain as possible that there will be no ground-water for a very long time to come.

If water does get into this formation, it will have to dissolve a large fraction of the surrounding rock before it can get to the waste. Since salt is soluble in water, you might think a salt formation would give the least protection; but in at least one rock formation being considered, there's so much salt and so little water that if all the water flowing through the ground in that area were diverted to flow through salt, it would take 50,000 years to dissolve away the salt enclosing one year's waste.

If the water should somehow get to the waste, which would be in the form of a glass or ceramic, it would take a very long time to dissolve it. Pieces of glass from Babylonian times have been found in rivers, where water has been washing over them for thousands of years without dissolving the glass.

Finally, if the ground-water should dissolve the waste, it would typically take a thousand years for water from that depth to get back to the surface. The radioactive materials would move hundreds of times more slowly, since various mechanisms would filter them out as they passed through the rock. So these things give many layers of protection for the first few hundred years, when the waste is very poisonous. . . . As I've said, after a few hundred years the waste ceases to be especially dangerous. . . .

The chances of this waste getting out even after a few thousand years are fairly slim. The "life expectancy" of a typical rock buried 2,000 feet below the surface can be estimated in various ways, and it turns out to be something like 50 million years. If the waste behaves like a typical rock, then the probability that an atom of waste will escape and get into a river is something less than one chance in 50 million per year. Once it gets into a river, we may presume it will behave more or less like other materials in rivers, which means that it has less than one chance in 10,000 of finding its way into human food or drink. When these probabilities are multiplied together, it turns out that if all our electric power were nuclear for a million years, the accumulated waste would cause less than one fatality per year in the United States.

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Good Taste on Martha's Vineyard

On the front page of its January 17 issue, *Variety* reported in an article by Joe Dine that pop singer Carly Simon and two partners have been granted a licence for a "nitery-restaurant" on Martha's Vineyard island.

> In spite of pleas that a night club on Martha's Vineyard would be another attack on this island's special quality, the Edgartown Board of Selectmen has granted a liquor license to pop singer Carly Simon. She and two partners will open a nitery-restaurant at the Martha's Vineyard airport to be known as The Hot Tin Roof.
>
> Leader of the opposition was Martha's Vineyard retired country editor Henry Beetle Hough. However, apart from the Hough coterie, most of the people at the public hearing supported the liquor-license application. Also in favor, apparently, were the Dukes County Commissioners and the West Tisbury Board of Selectmen. Part of the airport is in West Tisbury.
>
> Edgartown Police Chief Bruce Pratt said he would rather have a night club at the airport, where there was room and no traffic problem, than elsewhere in Edgartown, the traditional picturesque old whaling town.
>
> Simon's two partners are George Brush and Herbert Putnam, who formerly owned a small Edgartown sandwich shop and who are now painters and carpenters on the island.
>
> Brush, who described himself as the spokesman and principal shareholder of the proposed restaurant, promised the selectmen that only "quality rock, jazz, and folk music" would be played, that The Hot Tin Roof would provide Martha's Vineyard residents—including performers—with employment, that he would not encourage teenage business, that he would not advertise or otherwise promote the restaurant on the mainland.
>
> Hough suggested to the Selectmen that the Massachusetts Steamship Authority could be relied on to promote The Hot Tin Roof to lure additional visitors, most of whom would travel on the ferry.

On page two of the same issue, *Variety* lists the many celebrities (including Ms. Simon and husband James Taylor) who oppose the issuance of a license to McDonald's, which would like to build a restaurant of its own near the ferry docks in the island's Vineyard Haven section—there to feed that much despised species, the day-tripper.

> So many show biz, literary, and journalistic luminaries who live on Martha's Vineyard, at least part time, are joining natives in protesting the building of a McDonald's hamburger joint on this proud island that the situation can now be called a "cause celebrities."
>
> Among the Martha's Vineyard residents opposing the issuance of a license to McDonald's are author Robert Crichton, Mrs. Max Eastman, Mia Farrow, Ruth Gordon, E. Y. (Yip) Harburg, country editor Henry Beetle Hough, Garson Kanin, Vance Packard, theatre director Mary Payne, radio commentator Duncan MacDonald, Jules Pfeiffer, author

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Anne W. Simon, Carly Simon, William Styron, James Taylor, and John Updike.

More celebs, who only summer here, are expected to lend the weight of their names as news of the protest spreads.

Protesters claim that the licensing of a McDonald's here would be the first step in violating the peace of this quiet, quaint island. McDonald's has countered the outraged resistance with the remark of one spokesman that "you may be special but you won't be special for long." Some called the remark dumb public relations, but not the protesters because, of course, it helped solidify anti-MacDonald's forces.

Hearings are being held in Vineyard Haven, the town where the stand would be built, to determine whether it would meet the health, traffic, and aesthetic standards this island has always fought so fiercely to maintain.

It's now a media event, and a Board of Health meeting this week attracted radio, TV, and print coverage, and also, in spite of a searing winter rain, a large throng of protesters displaying various anti-Mac posters and signs. Anti-Mac bumper stickers and store window signs are flourishing on the island.

Our Town

A Manhattan weekly newspaper called *Our Town* (February 4, 1979) carried this notice of an intriguing community event:

> On Monday, February 6, the Animal Rights Club of the United Nations Staff Recreation Council will discuss the issue of "Rights"—The right to pursue one's own happiness regardless of intelligence, popularity, color, sex, age, or species. Speakers include Mary Yankauer, Burden Center for the Aging; Chief Joagguisho, Firekeepers of the Iroquois Confederacy; animal-welfare activist Henry Spira; and feminist Lorraine Glenby.

Meltsner's Law of Displacement

A new effort is underway to regulate one of government's leading products: paperwork. But as Arnold J. Meltsner described it in *Society* (November/December 1978), the new legislation this effort has spawned is likely simply to produce more of what it is supposed to control.

> Over the years, our Federal government, responsive as it is, has tried to do something about controlling paperwork. The Office of Management and Budget and its predecessor, the Bureau of the Budget, for example, have been in the business of writing procedures and clearing forms for statistical information. Recently we had the two-year Commission on Federal Paperwork that came up with over 800 recommendations. In the education area the commission found duplication in collection, unrealistic requests, insufficient time to respond, inconsistent terminology, high costs, and a lack of feedback. The commission

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urged greater coordination in the collection of information and encouraged the government to use existing data where possible. Not being satisfied with one paperwork-control act (Section 406 [g], Education Amendments of 1976, Public Law 94-482), Congress is now drafting another. By a 350 to 20 vote, the House of Representatives has passed H.R. 15, the Education Amendments of 1978, which contains the Control of Paperwork Amendments of 1978. The Senate has passed a similar bill, Reduction of Paperwork, S. 1753. When the minor differences between the bills are settled and fully implemented, this legislation is likely to follow a version of Meltsner's law of displacement: Public officials attempt to displace their problems onto other levels of government. I have observed the effects of this law in many policy areas, such as disaster relief, criminal justice, and financial aid to cities. In the paperwork situation it means that attempts to alleviate paperwork at the local level will create more paperwork and displace it to the Federal level. The legislative recipe is all too familiar. It is called *coordination*, and is frequently used in situations where the problems and solutions are inadequately defined and assessed. First, a bureaucratic office is set up to do the coordinating. In the case of paperwork control, this means that the office or its superiors will have to design procedures to make sure that a proposed collection of data is not, as H.R. 15 says, "excessive in detail, unnecessary, redundant, ineffective, or excessively costly." (Researchers with the temerity to ask for something both unnecessary and redundant ought to lose their licenses.) In the House version of paperwork control the office would be called the Education Data Management Unit, established within the National Center for Education Statistics, and in the Senate version the office would be headed by a "Deputy Assistant Secretary for Paperwork Coordination and Reduction."

Second, the recipe calls for recognizing that the office cannot actually do the job of coordinating by itself, since so many agencies, and the public, are concerned about education data. The coordinating office needs a coordinator, and in both versions the coordinator would be called the Federal Education Data Acquisition Council. Composed of representatives from Federal agencies, the OMB, and the public, the council would advise and assist the office in its job, and, when somebody didn't like what the office had done, act as an appeal body.

Third, tasks, specific and ambiguous, are assigned so that the coordinator will have something to coordinate. Thus in both versions Federal agencies would be expected to prepare plans for their evaluations and research that would include a justification for the use of the data, the methods of analysis, a timetable for dissemination of the collected data, and an estimate of the staff hours for educational agencies to respond and for Federal agencies to process the data. According to the House legislation, these agency plans or requests would have to be approved by the coordinator and publicly announced by January 1.

And if this is not enough to keep everybody busy, the Federal government is going to develop standard definitions, an automated indexing system for cataloging all available data, and uniform reporting

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dates. Every year a list of Federal agencies, their data requests, programs, and data burdens would be published. Every three years an implementation report would be submitted to Congress. The legislation also would authorize grants (starting at $5 million for fiscal year 1979 and going up to $50 million by 1983) to state agencies for the development and improvement of their computer data systems.

To do all this procedure writing, coordinating, and grant giving, Congress would authorize $600,000 for fiscal year 1979, which would grow to $1.2 million by fiscal year 1983. These amounts seem pitifully small if one takes seriously the complaints of paperwork overload, and they certainly do not reflect the total costs of coordination, most of which will be absorbed by other governmental agencies.

Comparative Redistribution

The MIT-Harvard Joint Center for Urban Studies' *Research Report* (October 1978), summarizing recent work by Professors Lee Rainwater and Martin Rein, said that they found interesting differences in the scope of "transfer payments" in the U.S., Britain, and Sweden.

> One of the most striking differences among the three countries is in the amount of public transfers and family allowances upon which individuals depend. For example, 81 percent of the Swedish population studied, 59 percent of the British, and 24 percent of the American receive some form of government transfer income. Sixty percent of the Swedish live in families that receive family allowances and 40 percent of the British. (The U.S. is the only Western industrial society without a child-allowance program.) . . .
>
> Professor Rainwater and Rein summarized their results by saying that Sweden subsidizes a great many people with small amounts of money. This is a quite different situation from the U.S. where large amounts of money are allocated to a small group of people. The figures for Britain lie somewhere between the two extremes.
>
> Furthermore, there is a difference in the form assistance takes in the three countries. In Sweden most of the assistance comes from social insurance where the individual contributes money to the system and is repaid in terms of pensions or insurance. In the U.S. most assistance comes from public benefits determined by need (means tested). Assistance in Britain is a combination of the two forms.

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